

1 questions?

2 MR. GUNDERSON: Thank you.

3 CHAIRMAN: Okay.

4 UNIDENTIFIED MALE SPEAKER: Thank you.

5 End Minute 1:08:04

6

7 Senate Finance Disk #2006-46/Track 1

8 Begin Minute 1:01

9 ***

10 MR. NULTY: Right. The -- I'm -- I'm
11 going to approach this slightly differently from the --
12 from the other witnesses. The bill proposes, as I
13 understand it, to place the legislature in front of the
14 regulatory process and, essentially, before you can go
15 apply for CPG, you have to come to the legislature.
16 Generally speaking, I'm a regulatory conservative. I
17 generally think that the CPG process and the regulatory
18 process has worked pretty well in the United States and
19 I've worked all over the world, so I'm familiar with
20 other systems. Generally speaking, I would be cautious
21 about that. However, in this situation, it seems to me
22 that the -- the range of issues that have -- that have
23 come up in Vermont associated with nuclear matters is so
24 broad and so important that I think there's a good case
25 to be made that the -- the PSB is not institutionally

1 equipped, and no other entity, no other agency is
2 institutionally equipped to -- to look at the entire
3 range of issues that you face and form a strategic
4 reaction to those.

5 CHAIRMAN: Can you help us list that
6 range of issues?

7 MR. NULTY: Yes.

8 CHAIRMAN: Okay.

9 MR. NULTY: You've heard some of them
10 today.

11 CHAIRMAN: Right.

12 MR. NULTY: But I think the point I'd
13 like to make is that these are all inter --
14 interrelated. You have three major CPG issues before
15 the PSB now. One is the uprate, one is dry cask
16 storage, and the third, which has just started, is the
17 relicensing of the plant.

18 CHAIRMAN: Okay.

19 MR. NULTY: And within that
20 relicensing, there's a -- a -- there are a number of
21 issues, but one very big one that's related to the
22 others, is the -- the decommissioning fund and -- and
23 what gets done with this stuff after -- after the plant
24 -- or not even. What gets done with this stuff after
25 the existing facility --

1 CHAIRMAN: The waste.

2 MR. NULTY: -- are -- are used up.

3 Now, all of these are very serious and they're
4 interrelated. The -- so, for instance, I happen to be
5 of the view, because of my background, I -- I am very
6 skeptical of whether the -- the federal government will
7 ever create a satisfactory nuclear repository. Whether
8 Yucca Mountain will ever open and whether the promises
9 to -- to take fuel off, for instance, spent fuel from
10 all the -- all the plants around the country will ever
11 be fulfilled. And -- or -- or if they are, whether it
12 might be 50 years from now, 60 years from now. In the
13 meantime, we have a decommissioning fund based on the
14 assumption that that stuff will be gone by then or the
15 feds will take it. And that's not necessarily true.
16 And -- I mean, if you look at what they're proposing,
17 essentially, it's about the proposal for the
18 decommissioning fund is really to keep this stuff stored
19 until the feds take it.

20 CHAIRMAN: Okay. So you -- you --

21 MR. NULTY: And but what if the feds
22 don't.

23 CHAIRMAN: Okay. So this --

24 MR. NULTY: And there's a real
25 possibility that the feds won't. And --

1 CHAIRMAN: Yes. I -- I think that
2 we're kind of operating on --

3 MR. NULTY: The assumption they won't.

4 CHAIRMAN: -- the assumption that pigs
5 may fly and we'll probably power the state with cow
6 manure before Yucca Mountain opens.

7 MR. NULTY: Well, that's a good
8 assumption.

9 CHAIRMAN: Okay. And but what you're
10 saying is when we set up the amount in the
11 decommissioning fund, it was under the assumption that
12 the feds would come through.

13 MR. NULTY: Right.

14 CHAIRMAN: And so that decommissioning
15 fund is not set up to cover the cost of the disposal or
16 storage of the waste that would be onsite --

17 MR. NULTY: In -- in a permanent way.

18 CHAIRMAN: In a permanent way.

19 MR. NULTY: Right.

20 CHAIRMAN: Or in any way?

21 MR. NULTY: No. I mean, it's -- it's
22 -- the presumption is that it -- it will be stored
23 either in the current liquid --

24 CHAIRMAN: It's got (inaudible) --

25 MR. NULTY: -- tanks or there will be

1 -- there will be cask -- dry cask storage --

2 CHAIRMAN: Yes.

3 MR. NULTY: -- but that all of this is
4 engineered with the presumption that it's temporary.

5 CHAIRMAN: Yes.

6 MR. NULTY: And the permanent is
7 somewhere else.

8 CHAIRMAN: Right.

9 MR. NULTY: I think, and I'm not
10 giving you an answer on this.

11 CHAIRMAN: You're claiming -- you're
12 claiming --

13 MR. NULTY: I'm saying the real
14 question --

15 CHAIRMAN: Right.

16 MR. NULTY: -- should Vermont think
17 about creating -- it's not a desirable situation, but
18 it's a second -- if -- if we have no choice, we should
19 be thinking about creating something that's pretty
20 permanent.

21 CHAIRMAN: Yes.

22 MR. NULTY: And not looking at --

23 CHAIRMAN: You have just spent ten
24 years or "X" years cleaning up a temporary site.

25 MR. NULTY: Exactly.

1 CHAIRMAN: Not cleaning up. Yes.

2 MR. NULTY: Not cleaning it up. Yes.

3 CHAIRMAN: Yes. Okay.

4 MR. NULTY: And so I -- I -- the
5 question of the dry cask storage is related to the
6 commissioning. It's related to the uprate because the
7 uprate dramatically increases the amount of spent fuel
8 you're going to generate. And -- and these are not --
9 this range of issues it not -- the PSB is not
10 institutionally equipped to think of them altogether.
11 It's not allowed to think about safety, as you know.

12 CHAIRMAN: Right.

13 MR. NULTY: It's -- there are some
14 questions about the jurisdiction of -- of the
15 legislature, but at the very least, the legislature
16 would have jurisdiction to think about compensation. I
17 mean, let's suppose that the NRC says that something is
18 safe. We've established in VSNAP hearings from the --
19 out of the mouths of the NRC itself, their view of
20 safety is an on/off situation. So they look at
21 everything and they decide that it has passed the
22 threshold; the degree of safety, the degree of risk has
23 reached a point or has fallen to a point where they say,
24 "Okay, that's the cutoff. That's the threshold. The
25 on/off switch. And we deem it safe." They've admitted

1 that that doesn't mean it is utterly safe. Even below
2 that threshold, there are degrees of risk.

3 CHAIRMAN: Unsafe.

4 MR. NULTY: Now -- yeah. Now, they
5 don't deal with that and they've said that. "We don't
6 deal with that. That's not our problem." But there is,
7 at the very least, the question that Vermont would want
8 to say, if a plant -- even if a plant is deemed to be
9 safe, that doesn't mean it's absolutely safe. And --
10 and if -- if there are measurable additional risks
11 associated with, let's say, an uprate, even though it
12 was deemed to be safe, should some compensation be
13 arranged for this? I mean, should --

14 CHAIRMAN: (Inaudible.)

15 MR. NULTY: Because there is --

16 CHAIRMAN: Economic risk.

17 MR. NULTY: -- economic or -- or -- I
18 mean, economic and safety are related, obviously.

19 CHAIRMAN: Um hum.

20 MR. NULTY: The -- yeah. I mean,
21 something that -- that -- a safety problem has economic
22 implications also.

23 CHAIRMAN: Oh, yes.

24 MR. NULTY: Yes?

25 UNIDENTIFIED MALE SPEAKER: Just one

1 of the -- if I may try to understand that better. One
2 of the reasons that the NRC says that a plant is safe is
3 because the NRC is convinced that, if something appears
4 to be going wrong, that the plant can be shut down and
5 the electricity turned off and prevent anyone from being
6 injured or hurt or -- or radioactivized.

7 MR. NULTY: With a certain degree --
8 with a certain degree of confidence.

9 UNIDENTIFIED MALE SPEAKER: With --
10 with confidence. But once the -- once that happens, the
11 electricity is gone.

12 MR. NULTY: Right.

13 UNIDENTIFIED MALE SPEAKER: Once that
14 happens, what?

15 UNIDENTIFIED MALE SPEAKER: If -- if
16 you shut the plant down --

17 UNIDENTIFIED MALE SPEAKER: Yeah?

18 UNIDENTIFIED MALE SPEAKER: -- and you
19 keep every -- anyone from --

20 UNIDENTIFIED MALE SPEAKER: Yeah.
21 Yeah.

22 UNIDENTIFIED MALE SPEAKER: -- being
23 hurt by radioactive fallout and there's no explosion,
24 you have a plant that is safe. It's been shutdown. But
25 from that day on, a huge economic --

1 UNIDENTIFIED MALE SPEAKER: Problem.

2 UNIDENTIFIED MALE SPEAKER: -- problem
3 occurs to Vermont --

4 UNIDENTIFIED MALE SPEAKER: Um hum.

5 UNIDENTIFIED MALE SPEAKER: -- because
6 a third of our electricity is gone.

7 UNIDENTIFIED MALE SPEAKER: Gone.

8 MR. NULTY: Not only is it gone, I
9 mean, our -- our electricity is the cheapest in New
10 England and Vermont Yankee and the buy-back arrangement
11 is a big part of that.

12 CHAIRMAN: This is just so
13 interesting. You remember --

14 MR. NULTY: Yes.

15 CHAIRMAN: -- about three years ago we
16 were the most expensive in New England and I don't think
17 our rates have changed that much.

18 MR. NULTY: Right.

19 CHAIRMAN: It's --

20 UNIDENTIFIED MALE SPEAKER: Yes. Yes.

21 CHAIRMAN: But the folks that
22 predicted then that the other towns that were
23 frontloading or backloading their expenses and we were
24 frontloading, that this would happen and it has.

25 MR. NULTY: But the --

1 UNIDENTIFIED MALE SPEAKER: So --

2 so --

3 MR. NULTY: Yes. Go ahead.

4 UNIDENTIFIED MALE SPEAKER: -- the --

5 if you could explain, because you did do well with
6 VSNAP, the difference between something being safe and
7 something being a reliable economic thing for a
8 ratepayers.

9 MR. NULTY: Yeah. The -- the --
10 actually, I think the -- the previous -- the bits and
11 pieces of the previous testimony I thought did a pretty
12 good job. Oh my God, I beg your pardon.

13 CHAIRMAN: Happens all the time.

14 MR. NULTY: It won't happen again.

15 CHAIRMAN: You notice Senator Ayer
16 jump for her bag and it's obvious we're --

17 MR. NULTY: Yeah, I mean, the -- under
18 the current -- current structure, Vermont gets 55
19 percent of the output of -- of -- of Vermont Yankee
20 under very advantageous terms. The uprate, the 20
21 percent uprate, however, Vermont gets none of that. So
22 from Vermont -- from Entergy's point of view, they look
23 at the 20 percent increase in -- in output, which
24 they'll be able to sell at market rates, and that's a
25 big plus side on the cost-benefit analysis. And they

1 look at the other side and they say, "Well, there's a --
2 there's a fair chance that this will increase the
3 unreliability and the -- and the plant will be down
4 more, but we'll balance the costs and we'll balance the
5 revenue. It's a good deal for us." That's fine. I'm a
6 businessman. I understand those calculations. But
7 Vermont is not in the same position because we don't
8 have the plus side. We don't get any plus from that
9 uprate. All we get is the downside, if -- if -- if it
10 goes down. And so our calculation is quite different.
11 It wouldn't be very hard to bring those into alignment
12 and I've asked Entergy, I've said, "Suppose -- suppose
13 we simply said that we get the same percentage of the
14 uprate electricity that we get of the regular
15 electricity?" Now, it might -- and whether it was a
16 wise idea for Vermont to do this or not, maybe many
17 people would still think it wasn't a good idea, but at
18 least our interests would be exactly aligned with, and
19 we'd get some benes from the risks we're taking. Right
20 now, we get no benes from the risks we're taking.

21 CHAIRMAN: Okay.

22 MR. NULTY: We just take the risk.
23 But that's the same -- that feeds into the -- to the
24 relicensing. I mean, the relicensing of what? The
25 uprated plant? Presumably, it is the uprated plant.

1 We have this -- this buy-back
2 arrangement. The buy-back arrangement finishes in 2012?
3 Are we going to get a new deal? Will we get something
4 out of this?

5 I mean, it doesn't seem to me, I have
6 a high respect for the PSB. I've been following them.
7 I do business with them at my current job and so forth.
8 But -- and I -- and I think they've handled this very
9 carefully and methodically and well, but I don't think
10 they have the institutional reach to look at all these
11 issues collectively and make the kind of tradeoffs. I
12 mean, there's -- there's no freebee out of this. There
13 is no right answer. You have to make a bunch of ugly
14 compromises. And -- and -- and I don't -- in order to
15 make those ugly compromises, you have to have the
16 institutional reach to look at them all and say, "Okay,
17 you know, we -- we do need the plant. The plant is
18 pretty old," you know, "How do we trade this off?" And
19 it seems to me that that's really the -- the legislature
20 is the only institution that has the possibility. The
21 PSB I don't think does. Certainly, the NRC doesn't.
22 They could care less about our economy. And I don't see
23 any other institution that is capable of -- of at least
24 addressing all the issues and thinking about the
25 tradeoffs.

1 I wouldn't normally -- I think this is
2 an unusual situation. I don't, as a general matter,
3 think it's a good idea to put the legislature in front
4 of the PSB for most regulatory matters. I mean, we've
5 created PSB for a reason.

6 CHAIRMAN: I don't think we do,
7 either.

8 MR. NULTY: But I think there's a good
9 case to be made that this is big enough and complicated
10 enough and broad enough that it does make sense.

11 CHAIRMAN: Thank you. That's help
12 frame it. Senator MacDonald has tried, and sometimes we
13 have difficulty following him and I think that was a
14 nice clear walkthrough of what the issues at play are
15 and what the concerns you might need --

16 MR. NULTY: Right.

17 CHAIRMAN: -- to be looking at and the
18 questions we might need to --

19 MR. NULTY: It's a big issues.

20 CHAIRMAN: -- be -- it is.

21 MR. NULTY: It's a big issue for the
22 State.

23 CHAIRMAN: Okay. Questions. Senator
24 Ayer.

25 SENATOR AYER: I have two. One is, is

1 it possible to get a summary of your remarks? Do you
2 have them somewhere?

3 MR. NULTY: Yes. I do. I -- I'm --

4 SENATOR AYER: Great.

5 MR. NULTY: I'm happy to --

6 CHAIRMAN: They'll -- they'll get e-
7 mails and we'll get them.

8 SENATOR AYER: Thank you.

9 MR. NULTY: The --

10 SENATOR AYER: I had -- I had two
11 questions.

12 CHAIRMAN: Okay.

13 MR. NULTY: Mark or somebody can tell
14 me where I e-mail it.

15 CHAIRMAN: Oh. We'll -- we'll get it
16 right to her.

17 MR. NULTY: She'll get it. Okay.

18 CHAIRMAN: We'll get it to you.

19 MR. NULTY: Okay.

20 UNIDENTIFIED MALE SPEAKER: I have one
21 -- one question.

22 CHAIRMAN: Well, let Claire finish
23 hers.

24 UNIDENTIFIED MALE SPEAKER: Yes.

25 CHAIRMAN: Does that work? And then

1 you can answer yours. Okay.

2 SENATOR AYER: Last year, when we were
3 debating and settling the dry cask issue, I had the
4 idea, and you may have spoken about this while I was out
5 of the room, and I apologize for that, but that the
6 timeline was all wrong. That it was sort of a done deal
7 and the legislature was the only holdout in this
8 situation. So I see this as putting the legislature in
9 front.

10 MR. NULTY: Yes.

11 SENATOR AYER: Which is exactly what
12 you said when you first sat down.

13 MR. NULTY: Which I think is right.
14 Yes.

15 SENATOR AYER: So is that -- is that
16 (inaudible) your perception.

17 MR. NULTY: I think -- that's my
18 perception. Yes.

19 SENATOR AYER: Okay.

20 MR. NULTY: And I think, I say, as a
21 rule, I am not in favor of this.

22 SENATOR AYER: Yes.

23 MR. NULTY: But I think there come
24 times when -- when the issues are broad enough that they
25 are not regulatory issues. They are legislative

1 statutory issues.

2 CHAIRMAN: Senator MacDonald.

3 SENATOR MACDONALD: In our last VSNAP
4 meeting, we were presented with a timeline about
5 decommissioning that had to do with a 70 year --

6 MR. NULTY: Right.

7 SENATOR MACDONALD: -- after closure
8 in 2032.

9 MR. NULTY: Yes.

10 SENATOR MACDONALD: Could you just
11 explain what -- what is being proposed or considered as
12 something the legislature might be -- want to be aware
13 of? They were talking about putting money aside for 70
14 years.

15 UNIDENTIFIED FEMALE SPEAKER: For the
16 decommissioning?

17 MR. NULTY: It was -- it had to do --
18 I've forgotten the precise detail and I have to go back
19 to my notes.

20 SENATOR MACDONALD: Yes.

21 MR. NULTY: But it -- you've said it
22 right. That the -- the proposal was -- was to calculate
23 and calculating the requirements for the -- for the
24 decommissioning fund to take into account the
25 possibility that they may have to -- this stuff might

1 have to sit onsite for a lot longer. But even then,
2 they weren't calculating it in terms of creating some
3 kind of final or reasonably permanent solution. They
4 were just talking about the cost of storing it in a
5 box --

6 CHAIRMAN: Storing it (inaudible) --

7 MR. NULTY: -- over --

8 CHAIRMAN: Yeah.

9 MR. NULTY: -- a longer period of
10 time. And -- and at the end of that period of time,
11 you'd have spent a lot more money and -- and the stuff
12 is still sitting in the same unsatisfactory temporary
13 place. In -- in -- in Hanford, when I was there, we
14 spent 390 million dollars a year babysitting this stuff.

15 CHAIRMAN: Okay.

16 MR. NULTY: Just babysitting it.
17 That's not making any progress.

18 ***

19 End Minute 23:36

20

21 February 22, 2006

22 Senate Finance Disk #2006-74/Track 2

23 Begin Minute 4:18

24 CHAIRMAN: -- and we are already an
25 hour behind because we were on the -- well, a half hour,

1 because we were on the floor. Okay. I guess Gerry
2 Morris is Brian Cosgrove today?

3 MR. MORRIS: I am, Madame Chair. In
4 the interest of time, I was specifying two weeks ago our
5 position on S.124 is we still do not support it.

6 CHAIRMAN: Okay. I just want to make
7 sure that VY is kept in the loop and --

8 MR. MORRIS: Appreciate it.

9 CHAIRMAN: -- allowed to speak
10 whenever they want. Okay. And -- okay.

11 End Minute 4:45

12

13 Begin Minute 46:40

14 CHAIRMAN: Senator Gander -- Senators
15 Gander, Ayer, MacDonald, Maynard and myself, we have
16 lots of interested people in the room and we've been
17 switching back-and-forth between intervener funding and
18 certificate of public good for extending the operating
19 license of a nuclear power plant. So we are back to VY
20 and just wondered what your thoughts were on requiring a
21 legislature certificate of public good.

22 MR. BODETT: Well, thank you. I have
23 a bit of a prepared statement here, if you don't mind.
24 I -- I would just like to read it.

25 CHAIRMAN: That's fine.

1 MR. BODETT: I -- I live here in
2 Dummerston with my wife and soon to be two children and
3 I am a member of the Dummerston Selectboard. I do have
4 the consent of my fellow board members to speak on
5 behalf of -- of the Dummerston Selectboard.

6 Now, in regards to S.124, it's clear
7 with only one nuclear plant in the state that this bill
8 is directed at Entergy Vermont Yankee.

9 CHAIRMAN: Um hum.

10 MR. BODETT: Which sits about nine
11 miles from here. And we moved here three years ago with
12 full knowledge of the plant's presence and this was not
13 a problem for us and it's not particularly a problem for
14 us now. If I didn't read the newspapers and they didn't
15 send me a calendar every year, I wouldn't even know
16 Vermont Yankee was there. I am neither pro or anti-
17 nuclear energy. I understand that we can alternately
18 embrace the arguments on both sides of the issue. I
19 honestly can't tell you on any given day where I stand
20 on the matter in general terms, but in more specific
21 terms, I can. This is in the area of the assignment of
22 the financial risk of operating a nuclear plant in our
23 state.

24 I do not live in fear of a
25 catastrophic failure of Vermont Yankee turning large

1 parts of Vermont, New Hampshire, Massachusetts into a
2 no-man's land for the next 40 thousand years. It's
3 possible, I suppose, but remotely so and you have to
4 pick the things you lose sleep over. But what I've come
5 to understand is that it will not take much of a
6 catastrophe at Vermont Yankee to do permanent harm to
7 the economy of our area, the state and perhaps the
8 region as a whole.

9 This came home to me a year ago when I
10 participated in my first radiological evacuation drill.
11 As a Selectboard member, I was part of the command and
12 control team watching this make believe event unfold in
13 our little room over the town office. Under the
14 scenario of the drill, there was a very small release of
15 radioactive material which the winds dispersed to the
16 south and west, away from Dummerston. Our school
17 children were evacuated to the reception center in
18 Bellows Falls as a precautionary measure and the rest of
19 us were advised to shelter in place, as there was no
20 imminent risk of contamination.

21 So I went home to my family that
22 evening and though, okay, if that had really happened,
23 we would be all right. We'd dodged a bullet. It was no
24 big deal.

25 Then I allowed myself to think about

1 what would be different if this thing had actually gone
2 down. I imagined turning on CNN and hearing the words
3 Vermont and radiation and disaster used about 10 times a
4 minute, 24 hours in a row, and I realized that my house
5 and property and the houses and property of everybody in
6 the area would be worth a fraction of what they had been
7 worth that morning.

8 I could flip channels through the late
9 night shows and stuff through the litany of two-headed
10 cows, glow-in-the-dark fall colors and atomic pancake
11 syrup jokes and realized that my neighbor, Reid Miller
12 and his orchard would not be selling much product this
13 year, and neither would the sugar houses, dairy farms,
14 cheese makers, candy makers or anyone else whose product
15 and marketing relies upon the wholesome, healthy and
16 pastoral image of Vermont. Brand name Vermont had just
17 turned into Three Mile Island and we would not be living
18 that down anytime soon. Perception is everything.

19 That's when I realized that it
20 wouldn't take much of an adverse event at Vermont Yankee
21 to start this downward spiral. There might not have to
22 be any radiation leak at all. All that would have to
23 happen is for the event to stay in the news cycle long
24 enough for a couple of satellite news trucks to park
25 themselves in downtown Brattleboro.

1 So then I started thinking as an
2 official with fiduciary responsibilities to the Town of
3 Dummerston. I realized that the value of our grand list
4 just tanked. Assessments would have to be adjusted.
5 People would be losing their jobs, turning houses back
6 to the bank, standing in line for tax abatement. The
7 Town of Dummerston would be in immediately financial
8 crisis.

9 With no real property damage to
10 report, the propositions would not be eligible for
11 claims to the funds provided by the Price-Anderson Act,
12 the self-insurance pool of the nuclear power industry.

13 Class action lawsuits might recover
14 something eventually, but this would take years. And in
15 the meantime, there would be roads to plow, bridges to
16 mend, culverts to clean and trees to clear. There's
17 permits to issue and records to keep and fires to fight,
18 not to mention children to educate. But where would
19 this money come from and do we double or triple the tax
20 rate on those left standing to make up the difference?

21 When I asked Senator White this
22 question last fall, she pointed out that there are
23 emergency state funds available for relief in an event
24 like this. That is comforting to a Dummerston taxpayer,
25 but we're also Vermont taxpayers. Why should we be

1 absorbing these liabilities?

2 The nuclear power industry self-
3 insures because it would not be cost effective for them
4 to insure otherwise. Insurance industry actuaries who
5 make their living assessing risk have decided that it's
6 too risky. If the nuclear power industry had to
7 maintain a bond or liability umbrella to the full extent
8 of their exposure, rather than the 10.8 billion dollar
9 limits of the Price-Anderson Act, the cost of generating
10 nuclear power would be too great to be a profitable or
11 even feasible enterprise. So as residents and
12 ratepayers our deal with the devil is that we get the
13 low electric rates, so long as we take the lion's share
14 of the financial risk. We save some money, they make a
15 profit. It seems like a good business partnership. And
16 it is except for one thing. The people of the State of
17 Vermont do not currently have a seat at the table when
18 it comes to making adjustments to the very risks they
19 are agreeing to take. Any licensing of or changes to
20 the operations of a nuclear power plant, be it the one
21 we have now on the Connecticut River or perhaps
22 something on the shores of Lake Champlain in 30 years
23 should be certified by the elected representatives of
24 the people of Vermont to be in their best interests with
25 all of the risk spelled out and thoughtfully considered,

1 along with any potential benefits.

2 So I urge you, on behalf of the Town
3 of Dummerston and the taxpayers of Vermont to pass
4 Senate Bill 124 and give us a real voice in the changes
5 being proposed and the decisions being made in the
6 nuclear power industry in Vermont. And I thank you very
7 much for your time today.

8 CHAIRMAN: Okay. Thank you very much.
9 Senator MacDonald has a question.

10 SENATOR MACDONALD: Will you please e-
11 mail that up here?

12 MR. BODETT: Yes. I certainly would.
13 To what address?

14 SENATOR MACDONALD: Elevin --

15 CHAIRMAN: No. Rlevin.

16 SENATOR MACDONALD: Or Rlevin@ --

17 CHAIRMAN: Yes. L-E-V-I-N,
18 rlevin@leg.state.vt.us. Right?

19 MR. BODETT: Right. So it's rlevin@
20 the State address.

21 CHAIRMAN: Yes.

22 MR. BODETT: Very good.

23 CHAIRMAN: Okay. Thank you very much.
24 And we'll make sure --

25 MR. BODETT: (Inaudible.)

1 CHAIRMAN: -- the committee gets it.

2 Any other questions from the committee? Okay. Thank
3 you very much.

4 MR. BODETT: Thank you.

5 End Minute 54:37

[Disk 81 at Track 1, 28:30]

Senator Cummings: Is it still in the public interest of the people of VT to continue this plant and given the president's nuclear policy this would be the same procedure if someone came in and asked to construct a new plant we would go back to this procedure which is what we did 40 yrs ago - that's not beyond possibility.

1

2

February 28, 2006

3

Senate Finance Disk #2006-81/Track 2

4

Begin Minute 1:33

5

CHAIRMAN: Hello, Professor. Can you
hear us?

7

MR. DWORKIN: I can you.

8

CHAIRMAN: Okay. We can hear you.

9

MR. DWORKIN: Great.

10

CHAIRMAN: We're actually ahead of
schedule and the committee is filtering back in, but
there are, as I'm sure as you can imagine, members of
the interested public, the Public Service Department,
the Public Service Board here. We are looking at the
bill which would propose -- and I believe you have a
copy of --

17

MR. DWORKIN: I have a copy of what's
labeled draft number three, S.124 2/28/06 (inaudible)
12:47 p.m.

20

CHAIRMAN: Oh. Yours is even later
than ours. No, 2:26. All right. Similar bill. I
think what we're asking is, from you perspective, is it
a good idea, is -- is there precedent, any thoughts you
might like to share about the process of asking a
nuclear power plant to come back to the legislature for

1 relicensing.

2 MR. DWORKIN: Yes. I would. By the
3 way, let me -- I have one labeled 2:28 p.m. as well. Is
4 that --

5 CHAIRMAN: Ours says 12:22.

6 UNIDENTIFIED MALE SPEAKER: Same
7 draft.

8 CHAIRMAN: Same draft.

9 UNIDENTIFIED MALE SPEAKER: Same
10 draft.

11 CHAIRMAN: It's just one is getting
12 run off, so --

13 MR. DWORKIN: Okay.

14 CHAIRMAN: I think you're close enough
15 here.

16 MR. DWORKIN: Let me begin with the
17 big picture, then, before we turn to the (inaudible).
18 And the obvious question is does this make sense for
19 there to be a legislative role in deciding whether
20 Vermont Yankee should be renewed.

21 CHAIRMAN: Right.

22 MR. DWORKIN: Or the license should be
23 renewed or extended. And my bottom line answer is yes,
24 it does. In the order that approved the purchase by
25 Entergy, we were very careful to make sure that one of

1 the conditions of the purchase with Entergy, acceptance
2 of the idea that there would be State-review of any
3 renewal and the Department of Public Service and Entergy
4 (inaudible) negotiated a memorandum of understanding
5 that the Board relied upon. But in the order, we didn't
6 just say, "We rely upon the MOU." We went further. "We
7 are expressly relying upon it. We put you on notice
8 that we're relying upon it. We would intend it to be
9 enforceable in the future." And when we wrote the
10 certificate that Entergy is operating under right now,
11 we wrote a condition in eight which said that it
12 terminated in the Spring of '01 -- I'm sorry, of 2012.
13 And we then wrote a condition that followed it that said
14 they could not operate after that date without a
15 certificate from the State. And in the discussion of
16 the pros and cons of the transfer of ownership when the
17 (inaudible) said that there would be a loss of State
18 control and a loss of local control, we looked at an
19 express (inaudible) that we would be relying on the fact
20 that the MOU clarifies there would not be a loss of
21 State control.

22 So the idea that there would be a role
23 for the State of Vermont in terms of any licensing on
24 this was inherent in a fundamental (inaudible) that the
25 Board approved in the summer of '02.

1 Now, the question of whether it should
2 be the legislature or the PSB standing alone is one that
3 I think the State has, you know, discretion to decide
4 (inaudible). But the bottom line for me is that this
5 one is so big and so important that it is unlike the
6 routine one and this case is too important to be left to
7 the technicians and it probably makes sense for there to
8 be a legislative role. Legislature is, you know, the
9 body that best represents the people of the state as a
10 whole. So I think there ought to be a legislative role.
11 I know there ought to be a State role. And the way the
12 Board set up the purchase (inaudible) that, you know,
13 (inaudible) a State role.

14 There is one area that the State
15 cannot rely upon. It's been law for several decades
16 that the State is preempted in its concerns about
17 radiological safety. So the State has made a decision
18 on whether (inaudible) which would include anything from
19 aesthetics to the obvious one about financial
20 obligations, to such things as reliability of the
21 electric grid, all of those are legitimate reasons.

22 So having the decision on whether the
23 State looks at everything except radiological safety, to
24 decide whether or not they wanted to have renewal make
25 sense.

1 Now, that's -- that's the big picture.

2 Turning to the bill itself, the way it is set up is
3 to -- and here, I'm really looking at the one that says
4 draft number three, (inaudible). I sort of think it's
5 draft number four. It's a little bit different from --

6 CHAIRMAN: Oh, we've got draft number
7 three, so --

8 MR. DWORKIN: Well, it says draft
9 number three in the top left corner.

10 CHAIRMAN: Yes. Yes.

11 MR. DWORKIN: Okay.

12 CHAIRMAN: I think we're all working
13 off the same page.

14 MR. DWORKIN: But I've got -- I've got
15 a couple of different ones that say draft number three.

16 The concepts that are most important
17 in my mind as I started looking at it was whether it
18 made sense for the legislature to consider it first and
19 then have the Public Service Board act second. Or
20 whether it made sense for the Public Service Board to
21 consider it first and then have the legislature act
22 before anything was finalized. And I think that
23 pattern, where the PSB considers it first and the
24 legislature then decides whether it agrees and acts
25 based on what the PSB has developed is probably the

1 healthier pattern and the more productive one.

2 CHAIRMAN: Okay.

3 MR. DWORKIN: And I want to point to a
4 parallel. It's not exactly the same, but I think it's a
5 useful comparison. The Public Service Board under
6 Section 248 approves large contracts and physical
7 construction for electric power projects. In the case
8 of municipalities, it doesn't -- it isn't the only body
9 that approves it. 248-C provides that, when a muni is
10 considering this, the Board's decision shall be given
11 after it's made. It shall be made public and available
12 to the voters in that municipality and they get to see
13 the pros and cons that the Board thought about and
14 anything else that their management wants to give them,
15 as well, and presumably anything else, and to vote on
16 it. But what they get is a distillation and decision-
17 making and (inaudible) that the Board developed through
18 the process. So that has an advantage and I think it's
19 fairly important. And in a sense, I think the
20 legislature would benefit the same way. If the Board
21 has a process that has both, you know, technical
22 analysis and some public involvement, it can offer a
23 fairly expert set of findings and recommendations to the
24 legislature and then the legislature can do what I think
25 (inaudible).

1 So that process of the board
2 proceeding first and the legislature second makes sense
3 in theory and has worked in practice so far as
4 municipalities (inaudible) for that.

5 So having said that, let's take a look
6 at the bill. The legislative purposes are what they are
7 and I think it's pretty clear. The first one, this is
8 your (a), a power -- nuclear power facility may be
9 operated without the specific approval of the General
10 Assembly after (inaudible). That's precise clear
11 language on that.

12 And the second one, does (inaudible)
13 establish a statutory process (inaudible). (Inaudible.)

14 I think the next part really follows
15 very closely from the Public Service Board certificate
16 of public good in (inaudible) of '02.

17 UNIDENTIFIED MALE SPEAKER: What page
18 is he on?

19 MR. DWORKIN: And (inaudible) it's
20 very clear (inaudible).

21 When you say that it must be filed at
22 least, you know, five years before the date on which
23 approval would take affect, that's certainly ballpark
24 range. It could be -- it's conceivable, indeed, it
25 might be possible (inaudible) four years. But, you

1 know, five years is safer than four. I wouldn't cut it
2 anything less than four without feeling very nervous.

3 The notice to the General Assembly it
4 says immediately advise the Board. That should be the
5 Board has to immediately advise the General Assembly.
6 That's one of those little words I never quite know what
7 it means, you know, whether it means that day, the next
8 day, three days. So immediately or promptly.

9 (Inaudible) if you think there's any ambiguity, you
10 might tweak that a little bit, but it's basically okay.

11 The public engagement issue is an
12 interesting one. The -- the Board had traditionally
13 been in a role of essentially acting as a court, making
14 technical findings on evidence and it has public
15 hearings at which it hears what matters of concern are.
16 But the rules of evidence won't let the Board consider
17 what somebody says in a public hearing with the same
18 weight as if they said it under oath, subject to cross
19 examination after discovery. So the Board's role in
20 strongly bringing out public engagement, it's usually
21 the Board (inaudible) listener (inaudible). And I think
22 this sums it up a little bit in a way that --

23 UNIDENTIFIED FEMALE SPEAKER: Excuse
24 me, Madame Chair?

25 MR. DWORKIN: -- frankly, I think it's

1 probably a good idea.

2 UNIDENTIFIED FEMALE SPEAKER: I can't
3 hear.

4 MR. DWORKIN: I think you should just
5 be aware that it is asking the Board to stretch a little
6 bit.

7 CHAIRMAN: Okay. We're -- we're
8 moving the phone here because some of the folks at the
9 far end are having trouble I think hearing. Okay.

10 MR. DWORKIN: Okay.

11 CHAIRMAN: Okay. And you're now on
12 page two, right?

13 MR. DWORKIN: Um --

14 UNIDENTIFIED MALE SPEAKER: Three.

15 CHAIRMAN: Actually three.

16 UNIDENTIFIED MALE SPEAKER: Three.

17 MR. DWORKIN: Actually, I'm on -- I'm
18 moving onto page four, the public --

19 CHAIRMAN: Okay.

20 MR. DWORKIN: -- engagement process.

21 CHAIRMAN: Yes.

22 MR. DWORKIN: Okay.

23 CHAIRMAN: So you're saying that the
24 Board usually just sits and listens?

25 MR. DWORKIN: The Board usually just

1 sits and listens.

2 CHAIRMAN: Okay.

3 MR. DWORKIN: And here, I think you've
4 got a slightly more active, you know, content.

5 CHAIRMAN: Okay.

6 MR. DWORKIN: And I -- I think it's
7 doable, but I just want you to be aware that it's a
8 little bit of a stretch.

9 CHAIRMAN: Okay. You may be
10 challenging them.

11 MR. DWORKIN: Yes.

12 CHAIRMAN: Okay.

13 SENATOR AYER: It's a stretch that we
14 should ask them to do it or a stretch that they can do
15 it?

16 MR. DWORKIN: I'm sorry. Was that
17 Senator MacDonald? I didn't even --

18 CHAIRMAN: No.

19 SENATOR AYER: No.

20 CHAIRMAN: That was Senator Ayer,
21 asking a question.

22 UNIDENTIFIED MALE SPEAKER: It sounded
23 -- it sounded like MacDonald, but it was Ayer.

24 SENATOR AYER: It's a stretch that we
25 would ask you to do that or a stretch for -- or ask the

1 Board to do that, or a stretch for the Board to do it?

2 MR. DWORKIN: I -- I don't --

3 SENATOR AYER: And Senator MacDonald
4 thought that was funny.

5 MR. DWORKIN: I don't think it's a --
6 I don't think it's beyond the Board's capabilities.
7 I -- I think it's a reasonable thing for you to request.

8 SENATOR AYER: Okay.

9 MR. DWORKIN: It's a little -- it's a
10 little bit of a stretch for the Board to execute it, but
11 if its got some lead time, they probably can.

12 SENATOR AYER: Thank you.

13 CHAIRMAN: Okay.

14 MR. DWORKIN: The list of issues that
15 you have in 4(a), just to make sure we're all in the
16 same place, you know, identify and analyze issues of
17 long-term accountability and financial responsibility,
18 (inaudible), security of waste, closure obligations,
19 completing, escrow of funds, funding for emergency
20 management and financial (inaudible). These are all
21 issues that the Public Service Board has considered
22 seriously; has the capability to do that if it can, you
23 know, exercise its usual powers (inaudible) a pretty
24 good list. The (c) which is the economic issues --

25 CHAIRMAN: We have one question.

1 MR. DWORKIN: Yes?

2 SENATOR AYER: How -- I -- I
3 understand -- this is Claire Ayer again. I understand
4 that only the feds are allowed to think of safety issues
5 and we carefully don't use that word here. But is
6 this --

7 MR. DWORKIN: Almost everyplace,
8 although I think I saw it somewhere in the draft, but go
9 on.

10 SENATOR AYER: But even though these
11 really are about safety issues in a -- in a lot of
12 cases, that that won't sort of mess things up, that
13 we're asking the Board to deal with those kinds of
14 issues? Do you know what I'm -- do you understand what
15 I'm asking?

16 MR. DWORKIN: Well, I -- I can tell
17 you the way it's traditionally been interpreted, is
18 this. That the federal authority has the right to say
19 what the safety standard should be.

20 SENATOR AYER: Um hum.

21 MR. DWORKIN: And to define the
22 actions that need to be taken to meet it. And the
23 states have to conclude or accept the federal definition
24 of how safe it has to be and what has to be done.

25 SENATOR AYER: Um hum.

1 MR. DWORKIN: The Supreme Court
2 decides that in a case involving the California Nuclear
3 Power Plant in the late 1970s. However, it also said
4 that, if the State was acting on grounds that were not
5 safety, that were financial or environment beyond
6 safety --

7 SENATOR AYER: Um hum?

8 MR. DWORKIN: -- that the State had
9 the authority to consider those issues. So the way it
10 works in practice is you do something like, say, let's
11 assume that they're going to have to meet the federal
12 standard and that meeting the federal standard will
13 cause "X" billion dollars, whatever it is. Now we feed
14 that number into the analysis on whether it makes
15 economic sense for the people of Vermont to buy
16 (inaudible) costs that much.

17 SENATOR AYER: Um hum.

18 MR. DWORKIN: The other thing that we
19 can consider, and have, is reliability. If we're
20 assuming that it's going to be there for anywhere
21 between, you know, 10 percent and 15 percent of the
22 State's power at different times and there are things
23 that are going to be have to be done that make it
24 unlikely to be there, then this is a matter of how many
25 eggs do you want to have in one basket and do you want

1 to lean on a source that might not be reliable? So a
2 problem that lead to the plant going down is legitimate
3 to the State to think about in terms of financial
4 obligation, in the event of the likelihood that it
5 disrupts the energy system in the state. Responding to
6 it by saying we don't want it because somebody might be
7 radiated is what we cannot do. And if that was the real
8 basis for a State action, there's a good chance the
9 Supreme Court would reverse at a lower court following
10 the Supreme Court decision would reverse State decision
11 that was based on that.

12 So in the technical jargon of
13 administrative law, we say that the buzz words are
14 adequate and independent. In other words, any State
15 decision to do whatever the State does has to be based
16 on grounds that are adequate to support the State
17 decision and independent of the radiological safety
18 issue. Now, you might come out in the same place that
19 you would come out.

20 SENATOR AYER: Um hum.

21 MR. DWORKIN: For safety reasons, but
22 that's not the test. The test is whether you've got
23 adequate independent reason to get (inaudible). That
24 was a long-winded answer, but is it helpful?

25 SENATOR AYER: I -- I think so.

1 MR. DWORKIN: Okay.

2 SENATOR AYER: Thank you.

3 CHAIRMAN: Okay.

4 ***

5 End Minute 24:44

[Disk 88 at Track 1, 20:01]

Gerry Morris: We still feel that we oppose this bill. As you know you passed the dry cask storage bill last year, which requires us to come back before the legislature and and we feel this is redundant. We oppose the bill as introduced. We oppose this draft, and I would like to see the final draft.

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March 2, 2006

Senate Finance Disk #2006-88/Track

Begin Minute 23:50

CHAIRMAN: -- or, if we decide we want more information, we'll get that. Okay.

MR. MOORE: Okay.

CHAIRMAN: Welcome.

MR. MOORE: Thank you. For the record, James Moore with the Vermont Public Interest Research Group and I appreciate the opportunity to be here. I look forward to seeing the next draft.

There were -- what I'm working off of is, you know, the draft in hand. There were some concerns. I understand some of them will be addressed in the next draft, so I'll try and limit my comments.

I think the first point, though, is it's -- we think it's totally appropriate for the legislature to undertake this process and that in no way is it redundant because relicensing -- excuse me, getting a new license for that facility which is slated to shut down in 2012 is one of the largest decisions that will be made in Vermont for some time and deserves the public debate and the analysis within the legislature. And I think the key component that makes

1 this bill very different from what Jerry referenced than
2 the bill last year is that it really tries to make,
3 insure that the legislature will be educated before the
4 discussion happens. So that there will be a public
5 process to inform legislators and to allow the public to
6 engage in, and that the Public Service Board will
7 endeavor in a kind of fact-finding process and will
8 present that information to the legislators in timely
9 enough fashion that the debate will be able to happen,
10 unlike it did last year where it was kind of hectic and
11 no one was real happy with the outcome in terms of the
12 process. So I think it's potentially setting up a
13 cleaner process within the State House. So the
14 information gathering part of it is crucial.

15 I also think, additionally, that time
16 for the legislature to digest the information that's
17 brought back in the report from the Public Service Board
18 is crucial. That the Public Service Board certificate
19 of public good process is not concurrent with the
20 legislative deliberations on the issue. That there's
21 some time for the legislature to digest the information
22 and the public input before the Public Service Board is
23 moving forward with the certificate of public good. In
24 part because one key component of the certificate of
25 public good process will, in all likelihood, be a

1 negotiation of terms of a power purchase agreement,
2 potentially, and that will kind of completely shift the
3 focus of the debate when that -- when those numbers are
4 brought forward, which is fine and appropriate at that
5 time. But the other issues deserve consideration.

6 ***

7 End Minute 28:11

[Disk 93 at Track 1, 40:11]

Male Legislator: We'll also learn things in these 4 years. And I think they're very important things to learn. We're looking at things like, the legislature then—we'll be looking at such things like reliability of the plant, will it go offline, does it—I mean all kinds of economic issues.

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April 4, 2006

House Natural Resources and Energy Disk 2006-107/Track 1
Begin Minute 20:21

UNIDENTIFIED FEMALE SPEAKER: You
know, as we sit here discussing things, discussions from
last year are coming back to me now, and remember we had
that (inaudible) that only Minnesota and Vermont
retained authority over dry cask storage and that was
because of an agreement that Vermont Yankee made at the
time I think of sale or something or at some point.

UNIDENTIFIED MALE SPEAKER: Yes.

UNIDENTIFIED FEMALE SPEAKER: And so
we didn't have any testimony last week on, you know,
what does the federal government preempt and what does
it not preempt in --- in this whole new relicensing
context, because I think we need to understand that so
that we can understand just what can we effectively put
into statute.

End Minute 21:09

[Disk 107 at Track 1, 44:59]

Male Legislator: I'm not seeing this as nuclear policy, I'm seeing this as Vermont's electric policy, how this is one piece . . . to come up with what is the future for Vermont electricity.

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April 19, 2006

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House Natural Resources and Energy Disk #06-133a/Track 1

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Begin Minute 10:39

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MR. BORIGHT: And -- and there's other language that, you know, tells the people to try to stop anything that starts.

8

9

That -- one other general point, there was an attempt to focus on areas that are clearly within the authority of the State and the General Assembly.

10

11

You know, there is -- there is some federal preemption

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in some areas and the intent was to focus on the

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economic issues. You know, is it wise that -- should

14

the -- should the state buy the power? Is there a need

15

for power -- the power? Some of the long-term economic

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interests and issues that are -- that are clearly within

17

the authority of the State. So the intent was to focus

18

on that and to stay away from the stuff where we're

19

preempted.

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End Minute 11:22

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Begin Minute 36:40

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UNIDENTIFIED MALE SPEAKER: Joe, that's the short-term that we're looking at, but we also want to look at the long-term. That's why I want these

25

1 -- these studies. Because the deal is totally
2 different. You know, it was going to be (inaudible)
3 shut down and decommissioned and none of this fuel was
4 going to be there. You know, high-level nuclear waste.
5 Now we're looking at ultimately run -- uprated, run
6 another 20 years and the fuel is going to stay there and
7 we don't know how long it's going to be there and we
8 don't know if the money is going to be there to take
9 care of it. And those are some of the things we want to
10 look at.

11 Say we decide, okay, go ahead, you
12 know, it should run and we should buy the power, maybe.
13 We still want to look at, is the decommissioning fund
14 going to go out and take care of the long-term costs if
15 that stuff's going to be there. I mean, we live, you
16 know, those of us who live in the proximity of the plant
17 tend to be much more aware of the risks and the dangers
18 and the possibility that the dry casks with the high-
19 level nuclear waste may be there forever. And we
20 brought up last year that the decommissioning fund only
21 goes out to 2030, something like that. And the State
22 nuclear engineer sat right there and said, well, we're
23 going to -- they're going to redo the report of the
24 decommissioning fund and may look at that. Well, they
25 haven't really done that. So you have this -- an LLC, a

1 limited liability company owning what's now an asset,
2 but it's going to turn into a liability. When it turns
3 into a liability and they close it down, you know, we're
4 left with the decommissioning fund. And it appears
5 right now that that only works if the stuff gets moved.
6 And, you know, this is a legacy. If we -- if that stuff
7 stays here long-term, it's a legacy, really, I think for
8 future generations and we have to make sure that they
9 have the funding to guard and take care of that stuff.
10 And we're just asking that -- that elected officials
11 really understand the implications and the facts and
12 make fully informed decisions for what (inaudible) we
13 may be leaving for future generations.

14 End Minute 39:17

15

16 April 19, 2006

17 House Natural Resources and Energy Disk #06-134/Track 1

18 Begin Minute 49:57

19 ***

20 UNIDENTIFIED MALE SPEAKER: Would --
21 would you do me a favor and just expound on why you
22 think it is important for the legislature and public
23 policy?

24 MR. MATHEAU: Well, we need -- it's --
25 it's really difficult to -- to craft an energy policy, a

1 strategy. And I don't envy the Department's efforts in
2 trying to do that and in a time when it's just so many
3 market commodities worldwide. I mean, you know, Florida
4 Light and Power owns Seabrook Nuclear and wind farms in
5 Pennsylvania. And it's -- it's -- it's just not the way
6 it used to be. It's really difficult. And how are we
7 going to proceed? I don't know. We're not going to
8 replace that much base power with wind power, but we are
9 going to have commercial wind power up on the ground I
10 think before this decision gets made. And so there's
11 going to be a -- a pretty vital mix of things going on
12 and this is a really core piece of -- of that strategy.
13 And what direction are we going in? And -- and if in
14 2008 it's looked at and things like the operating
15 history, which is pretty solid, are taking into account
16 and everything else and the legislature says we're
17 keeping this as part of the mix for 20 years, okay. And
18 if the legislature says no, that's okay, too. I
19 don't -- I think we can't be afraid to make that
20 decision and we're going to -- it's going to be
21 difficult. The future is not going to be easy, no
22 matter which way it goes. And so I think it's -- it's
23 the right thing to do to make that decision in the most
24 public statewide way we have.

25 UNIDENTIFIED MALE SPEAKER: Thank you.

1 Any other questions? Thank you very much.

2 MR. MATHEAU: Thanks.

3 End Minute 52:48

4

5 April 20, 2006

6 House Natural Resources and Energy Disk #06-137/Track 2

7 Begin Minute 19:02

8 UNIDENTIFIED FEMALE SPEAKER: I don't
9 think that was your intent at the top of page four.

10 UNIDENTIFIED MALE SPEAKER: No.

11 UNIDENTIFIED FEMALE SPEAKER: But it
12 could be read that way and so I would like to have that
13 cleaned up, if we could.

14 UNIDENTIFIED MALE SPEAKER: Yes.

15 UNIDENTIFIED FEMALE SPEAKER: Well,
16 what I was thinking the intent was that, when -- because
17 under existing law, they have to come to the legislature
18 for dry cask storage, that the intent was that, when the
19 legislature -- when or if the legislature acts on dry
20 casks, that everything is on the table.

21 UNIDENTIFIED MALE SPEAKER: Right.

22 UNIDENTIFIED FEMALE SPEAKER: Thank
23 you.

24 UNIDENTIFIED FEMALE SPEAKER: Is that
25 the --

1 UNIDENTIFIED FEMALE SPEAKER: The one
2 bite at the apple. I appreciate that. I like that.

3 UNIDENTIFIED FEMALE SPEAKER: But it's
4 not just dry cask. It's everything that's not coming
5 (inaudible) table.

6 UNIDENTIFIED MALE SPEAKER: That's
7 correct.

8 UNIDENTIFIED FEMALE SPEAKER: Okay.

9 UNIDENTIFIED FEMALE SPEAKER: And do
10 you want to try to draft something --

11 UNIDENTIFIED FEMALE SPEAKER: Yes.

12 UNIDENTIFIED FEMALE SPEAKER: -- with
13 that sentiment?

14 UNIDENTIFIED FEMALE SPEAKER: Yes. I
15 totally agree with that. I think that's great and I was
16 just worried about how the petitions would be filed.

17 UNIDENTIFIED FEMALE SPEAKER: I mean,
18 that was how I viewed it last year anyway.

19 UNIDENTIFIED FEMALE SPEAKER: Okay.

20 UNIDENTIFIED FEMALE SPEAKER: But, you
21 know, this can be helpful to give the petitioner notice
22 that we think -- yeah -- that our position is that
23 everything that's not preempted is on the table.

24 End Minute 19:57
25

1 April 20, 2006

2 House Natural Resources and Energy Disk #06-138/Track 2

3 Begin Minute 2:40

4 CHAIRMAN: Welcome.

5 MR. COSGROVE: Thank you, Mr.

6 Chairman. For the record, my name is Brian Cosgrove.

7 I'm Director of Government Affairs for Entergy Nuclear

8 Vermont Yankee. I appreciate the opportunity to be here

9 today and I'd just like to begin by thanking

10 Representative Darrow for trying to give us a little

11 opening with CVPS in our negotiations. I appreciate

12 that.

13 Just about a year ago, in May of 2005,

14 we felt at Vermont Yankee that we had found a clear way

15 forward to license renewal and that sort of thing, as a

16 result of the work that we had done in this committee on

17 dry fuel storage and a lot of hard work by a lot of

18 people and a lot of good-faith work and we certainly

19 appreciated that.

20 End Minute 3:18

21

22 Begin Minute 4:25

23 MR. COSGROVE: However, all that being

24 said, we still feel that we are going to stay with our

25 original position on this bill when it was in the

1 Senate, is that it is not necessary and we thought,
2 after last year, we had a, as I said, a clear way
3 through. I think that the Public Service Board 248
4 process is adequate. We felt that the language in the
5 dry fuel storage legislation last year provided an up
6 and down vote, policy vote, if you will, in the
7 legislature and, obviously, in the process of
8 considering the dry fuel storage issue, there was room
9 there, probably, to explore other issues at the will of
10 the legislature and we understood that to be true, as
11 well.

12 So all those things being said, it
13 seems to us that we continue to believe this bill is not
14 necessary and that we're not able to support it.

15 But, again, I thank everybody for
16 their hard work and I believe good-faith efforts to do
17 the right thing.

18 End Minute 5:20

19

20 Begin Minute 19:09

21 MR. COSGROVE: We need to come back to
22 the legislature for dry fuel storage permission.

23 UNIDENTIFIED MALE SPEAKER: Okay.

24 MR. COSGROVE: Right.

25 UNIDENTIFIED MALE SPEAKER: Yes.

1 MR. COSGROVE: I was -- I was sort of
2 short-handing that that would be part of the process.

3 UNIDENTIFIED MALE SPEAKER: Okay.

4 MR. COSGROVE: I mean, that would be
5 -- I -- I'm assuming that my understanding is that, when
6 we file with the PSB, that begins the process, would
7 begin the process here.

8 End Minute 19:25

9

Act 189 (2008)

PREEMPTION FROM 50,000 FEET

Prepared for House Natural Resources and Energy Committee 3/25/08

Prepared by Sarah Hofmann, DPS

IMPORTANT NOTE: The summary that follows is NOT a comprehensive review of the legality of any actual proposed action. It is a 50,000 foot overview of the federal preemption law as applied to nuclear power. Prior to proceeding to take specific action, whether legislatively or administratively, with respect to continued operation of a nuclear plant, a state would need a very specific analysis of the proposed action in regard to preemption.

WHAT IS PREEMPTION?: Preemption is a legal doctrine that gives supremacy to federal law in cases where there is a conflicting or inconsistent state law. It springs from the Supremacy Clause of the U.S. Constitution which says that the laws of the U.S. shall be the supreme law of the land. In other words Federal law trumps – or preempts - the state law in certain circumstances. Preemption can occur if one of three conditions exist: first, where Congress “explicitly” declares that its law is intended to preempt identified state laws; second, absent explicit preemption, if a state law regulates conduct in a field in which Congress intends to “occupy exclusively;” third, if application of a state law “actually conflicts with federal law.” English v. General Electric, 496 U.S. 72 (1990)

WHAT DO WE KNOW ABOUT NUCLEAR PREEMPTION?: Nuclear preemption stems from the Atomic Energy Act:

Congress in passing the 1954 [Atomic Energy] Act and in subsequently amending it, intended that the Federal Government should regulate the radiological safety aspects involved in the construction and operation of a nuclear plant, but that the States retain their traditional responsibility in the field of regulating electrical utilities for determining questions of need, reliability, cost, and other related state concerns.

Pacific Gas & Elec. Co. v. State Energy Resources Conservation and Dev. Comm'n., 461 U.S. 190, 205 (1983).

The Supreme Court has further noted that U.S. Nuclear Regulatory Commission’s “prime area of concern in the licensing context, . . . is national security, public health, and safety.” Vermont Yankee Nuclear Power Corporation v. NRDC, 435 U.S. 519 (1978).

SO WHAT APPEARS TO BE PREEMPTED?: The Court cases to date have clearly shown that issues of radiological health and safety are in the purview of the federal government and can thus preempt state law.

AND WHAT APPEARS NOT TO BE PREEMPTED?: Areas of traditional state authority such as economics, reliability, need for the power and alternatives, and environmental factors that are not radiological in their origin. In other words, our Certificate of Public Good criteria in 30 V.S.A. § 248 contains much of the traditional

state regulatory overview that is unlikely to be preempted as long as it is not tied to radiological health and safety..

DO THE COURTS LOOK AT MOTIVE FOR LEGISLATION?: They can and do. At least two cases clearly show the Federal Court looking behind the stated reason for a state or local regulation to see if there was a "hidden" motive directed at nuclear power plant safety. In one case the Court rejected the suggestion of an economic rationale for legislation because none was explicitly mentioned in the legislation. In another the court rejected a claim that the importation and storage of spent fuel was a zoning concern.

However, the Supreme Court in another case rejected the need to look behind the stated motive for the legislation to see if there was a hidden nuclear safety agenda, and instead found that even if not safety motivated, a law could be preempted depending on its "effect on nuclear safety." The Court said that to be preempted a state law "must have some direct and substantial effect on the decisions made by those who build or operate nuclear facilities concerning radiological safety levels." English v. General Electric, 496 U.S. 72 (1990).

WHAT HAS THE PSB SAID ABOUT PREEMPTION THUS FAR?:

From Docket 6545 (Sale of VY from Vermont Yankee Nuclear Power Corporation to Entergy) Order of 6/13/02 at pages 121-22 with footnotes omitted:

Preemption

According to CAN, because Entergy's agreement to provide financial assurances is preempted by NRC regulations, the Board must reject the MOU, as it fails to actually provide the adequate assurances that the Department deemed necessary to support approval of the sale. We find CAN's preemption argument unpersuasive. A decision by this Board based upon this state's traditional police power, limited to issues associated with the manner in which Vermont meets its energy needs, does not conflict with the Atomic Energy Act or the NRC's regulations.

In *Pacific Gas and Electric Co. v. State Energy Resources Conservation & Development Commission* ("PG&E"), the U.S. Supreme Court held that the Atomic Energy Act preempts state jurisdiction as to the "radiological safety aspects involved in the construction or operation of a nuclear plant . . ." but also that "States retain their traditional responsibility in the field of regulating electrical utilities for determining questions of need, reliability, cost and other related state concerns."

The Court explained, however, that even when a statute, such as the Atomic Energy Act, does not expressly preempt state authority, a scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for states to supplement it. Upon review of the Atomic Energy Act and its legislative history, the Court concluded that the federal government occupies the entire field of nuclear-safety concerns, although it does not displace states' traditional authority over "the need for additional generating capacity, the type of generating facilities to be licensed, land use, rate-making, and the like." The Court also indicated that state regulation is preempted where it actually

conflicts with federal law, *i.e.*, in a case where compliance with both federal and state regulations is an impossibility, or when state regulations serve as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.

The Department and the Petitioners have willingly entered into a Memorandum of Understanding designed to, among other things, ensure that ENVY is appropriately capitalized. The proposed financial assurances are designed to provide ENVY with access to credit during periods of regular operation and, if necessary, during an extended period necessary to plan and execute a shutdown of Vermont Yankee, and to prepare for full access of decommissioning trust funds.

Neither the Atomic Energy Act nor Nuclear Regulatory Commission regulations are implicated by our approval of the MOU. In the MOU, Entergy Corporation agrees to provide sufficient capitalization to its affiliate, ENVY. It is a consensual document which neither imposes safety standards upon ENVY, nor impedes ENVY's ability to meet safety standards to which it is otherwise subject. The MOU ensures that Entergy Corporation makes available a minimum amount of funding to ENVY which we have determined is in the good of the state. This requirement need have no impact on decisions by ENVY and ENO regarding radiological safety. Therefore, we conclude Entergy Corporation's voluntary agreement to capitalize ENVY to the level agreed upon in the MOU is not preempted by federal law.

From Docket 6812 (Uprate of VY) Order of 3/15/04 at pages 106-07 with footnotes omitted:

(b) *Emergency Planning*

Some members of the public raised questions about the adequacy of emergency planning. These are important issues. However, because of the limitations to the Board's authority, we have not considered, and cannot consider the adequacy of the emergency management plan for Vermont Yankee. In 1979, following the Three Mile Island nuclear power plant accident in Pennsylvania, President Carter transferred the Federal lead role in offsite radiological emergency planning and preparedness activities from the NRC to FEMA, the Federal Emergency Management Agency. It became FEMA's role to ensure public health and safety of citizens who live offsite, *i.e.*, in the area surrounding a nuclear power plant, while the NRC onsite activities continued to be the role of the NRC. Federal preemption of state authority remained, however, except to the extent that FEMA assigned roles to local and state entities. So it is FEMA's responsibility to ensure that state and local government emergency preparedness activities take place beyond the nuclear power plant boundaries. In Vermont, this authority has not been given to this Board; instead, the primary responsibility rests with the Emergency Management Division of the Department of Public Safety.

S. 364
Comprehensive Reliability Assessment of Vermont Yankee
Section by section summary and
Comparison of Senate-passed version and amendment of House NR&E

Sec. 1. LEGISLATIVE INTENT AND PURPOSE

(a) States that the intent and purpose of the audit is to inform the Legislature in making its determination whether or not Yankee may extend operations beyond March 12, 2012. The House NR&E version differs slightly from the Senate version in that it notes that Act 160 of 2006 “reconfirmed” the legislature’s authority to do this rather than “vested” that authority.

(b) Paragraph relettered in H.NR&E version, otherwise the same as Senate including retaining language that the extension requested is “beyond its 40-year design” and not “beyond its original operating license”.

(c) This paragraph is new in the H.NR&E version. It was suggested by DPS to re-emphasize that the audit is within the state’s appropriate area of jurisdiction – to assure a reliable source of power for economic reasons.

(d) This is also new in the H.NR&E version. It outlines what the comprehensive reliability assessment must be and makes reference to the following four sections for details.

Sec. 2. GOALS AND OBJECTIVES

This is almost identical to the Senate bill (Sec. 1, (b)). The changes are:

1. Introductory phrase “Giving due consideration... to legitimate state interests”
2. Assessing for operating “at up to 120 percent”, and verifying operating margins “for the present licensed power level” (i.e. 120%)
3. Assessing “the facility’s reliability for continued power production”

Sec. 3. SPECIFIC SYSTEMS TO BE ADDRESSED

The list of systems is taken from the Senate-passed bill (Sec. 1 (e)). H. NR&E would add one system – an underground piping system. The “cable separation issue” must also be addressed and this is stated separately, not as a separate system. Finally, additional systems may be added to the list by the Public Oversight Panel in consultation with the DPS.

Sec. 4. SPECIFIC AUDIT INQUIRIES

This list of inquiries is also taken from the Senate-passed bill (Sec. 1, (d)). The H. NR&E version makes clear that it is not exclusive. Some editing changes were made, most of which were not substantive. One substantive change would allow that the inquiries may be limited to “each system’s relevant” components.

Sec. 5. DESIGN AND METHODOLOGY

The Senate-passed bill required and defined a “comprehensive vertical audit and reliability assessment” to include a “vertical slice” audit of “at least seven whole plant systems”. (Sec. 1 (c)). This must be followed by a “horizontal investigation” when problems are encountered. (Sec. 1 (f))

The H. NR&E version would retain the “vertical” and “horizontal” investigation concepts, but allow more flexibility in their application. The H. NR&E version requires the DPS in *consultation* with the Public Oversight Panel to design the work plan and its time-frame. It would allow deviation from a complete “vertical/horizontal” methodology where the DPS and the Panel determine it would be inefficient or ineffective. Other methodologies may be utilized by the DPS in consultation with the Panel.

Sec. 6. PUBLIC OVERSIGHT PANEL

The Senate-passed bill creates a “Public *Evaluation* Panel” of three members of the public appointed jointly by the legislative leadership. This evaluation panel’s task would be to “oversee” the work of the audit inspection team, and review and report its “evaluation” of the work to the General Assembly. (Sec. 3)

The H. NR&E version creates a “Public *Oversight* Panel” of five members, three of them appointed jointly by the legislative leadership and the governor, with those three then appointing the remaining two. If any of the three joint the appointments are not made within 21 days, the PSB must make the appointment.

Both versions give the public oversight/evaluation panel access to records and documents generated in the audit. The H. NR&E version goes further to provide access to records and documents of any other audit of Yankee pertinent to the reliability assessment, and also provides that because the panel may then have access to proprietary and security related documents, the oversight panel is not subject to the state’s open meeting law and public records act. After publicly reporting to the General Assembly, the Public Oversight Panel will be subject to public access requests for material relied on in making its evaluation and report with redactions of proprietary and security information if needed.

Sec. 7. AUDIT INSPECTION TEAM

The Senate-passed version directs the DPS to empanel an audit inspection team of a sufficient number of qualified experts to conduct the audit. The DPS may request the participation of the NRC. However, to maintain independence employees or consultants of the NRC who are affiliated with this NRC region's office may not participate. The team may also consist of independent contractors selected by the DPS who have not worked at Vermont Yankee, Entergy, or its affiliates.

The H. NR&E version directs the PDS *in consultation* with the Public Oversight Panel to select an audit inspection team to conduct *all or any part* of the audit directed by this act. The DPS is not directed to invite the NRC as the NRC has already indicated that it will conduct some safety/reliability assessment this year. By authorizing the DPS and Oversight Panel to select a team to conduct *any part* of the audit, those parts not assessed by the NRC may then be addressed. The parts of the audit assessed by the NRC will be provided to the Public Oversight Panel for its evaluation to the legislature. The team of experts selected by the DPS and Oversight Panel must have been independent of Vermont Yankee and Entergy for the past three years.

Sec. 8. EXPENSES AND COSTS

Both versions assess all costs of the audit to Entergy for collection by the Department under standard "bill-back" authority.

Sec. 9. EFFECTIVE DATE

Both take effect from passage. The Senate-passed version calls for the Panel to report to the General Assembly by January 7, 2009. The H. NR&E version moves that date to January 30, 2009.

Also, the H. NR&E version allows the Public Service Board to immediately begin c.p.g. proceedings for permission to operate the nuclear plant beyond its existing certificate, rather than wait until July 1, 2008 to do so as required by Act 160 of 2006.

JAMES H. DOUGLAS
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

March 12, 2008

The Honorable Dale L. Klein
Chairman
United States Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852-2738

Dear Mr. Chairman:

I am writing to you regarding the proposed extension of the operating license of the Vermont Yankee nuclear station in Vernon, Vermont. In addition to the approval of the Nuclear Regulatory Commission (NRC), Vermont law requires any such extension be approved by both the Vermont General Assembly and the Vermont Public Service Board.

The operation of Vermont Yankee is now at a critical juncture. Entergy Nuclear, its owner and operator, is seeking regulatory approval to extend its operating license for an additional 20 years. Events during the summer of last year, however, have raised doubts and questions about the safety and reliability of this nuclear station and its operations. Specifically, Vermont Yankee has had several avoidable events that include the partial collapse of a cooling tower and a reactor scram that have each been traced to shortcomings in the maintenance of equipment.

These events have shaken the confidence of Vermonters and our neighbors in New Hampshire and Massachusetts about the safety and reliability of the plant. They have brought into question whether Vermont Yankee should operate beyond its present operating license expiration date of 2012. In addition, I need to be assured that the conditions and/or practices that contributed to the events of last summer do not extend to other areas of the Vermont Yankee operation which may have an impact on plant safety as well as reliability.

Because of the above, I believe it is critical before the State of Vermont is in a position to finally consider a license extension that the Nuclear Regulatory Commission conducts a comprehensive reliability and safety assessment of Vermont Yankee. I am, therefore, formally requesting that the NRC conduct such an assessment, and do so in consultation with the Vermont Department of Public Service in formulating the inspection program. I also request that the assessment include the participation of the Vermont State Nuclear Engineer and consultants, and those NRC inspectors and contractors have independence from the Vermont Yankee operation.

109 STATE STREET • THE PAVILION • MONTPELIER, VT 05609-0101 • WWW.VERMONT.GOV
TELEPHONE: 802.828.3333 • FAX: 802.828.3339 • TDD: 802.828.3345

The Honorable Dale E. Klein
March 12, 2008
Page Two


The bottom line is that any such assessment must provide the information needed for our regulators and the Vermont General Assembly to determine if the Vermont Yankee nuclear station can operate safely and reliably for the additional 20 years requested beyond its current licensed life.

This is an issue of critical importance to the State of Vermont. The members of Vermont's Congressional delegation, of course, have their own concerns with the information needed for a license extension, and my administration has had many conversations with them, and the Vermont General Assembly is considering legislation of its own to address this issue. Therefore as we discuss the scope of a review there are likely to be additional considerations from our Congressional delegation and our General Assembly that will need to be considered.

But we are now at a time that if the NRC is to conduct the assessment which I believe is essential, it must be initiated in the next several months to be completed in a timely fashion such that its findings can be available to both our Public Service Board, and the General Assembly when it convenes next January.

The State of Vermont looks forward to working cooperatively with the NRC to identify the full scope and breadth of this assessment, and I look forward to your positive response to my request.

Sincerely,



James H. Douglas
Governor

JHD/pbb

c: Hon. Patrick Leahy, U.S. Senator
Hon. Bernie Sanders, U.S. Senator
Hon. Peter Welch, U.S. Representative
Hon. Gaye Symington, Speaker of the House
Hon. Peter Shumlin, President Pro Tempore Vermont Senate
Hon. Anne Cummings, Chair Senate Finance Committee
Hon. Robert Dostis, Chair House Natural Resources and Energy Committee
Mr. David O'Brien, Commissioner Vermont Department of Public Service
Mr. James Volz, Chairman Vermont Public Service Board

(Draft No. 1 – S. 364)
4/4/2008 - WPR - 10:44 am

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(1)

issues, or other unanalyzed or nonconforming conditions are encountered, a thorough horizontal or lateral exploration shall be conducted to determine extent-of-condition and root cause with attention to evaluating licensee performance in problem identification and resolution, testing, engineering, in-service inspection, and maintenance.

* * * The NRC and the Audit Inspection Team * * *

Sec. 5. NUCLEAR REGULATORY COMMISSION

(a) The General Assembly seeks and invites the participation and assistance of the federal Nuclear Regulatory Commission in conducting an independent comprehensive ^{particular} audit and reliability assessment of the Vermont Yankee nuclear facility. On behalf of the state, the governor is directed to petition the Nuclear Regulatory Commission to request such assistance and participation.

(b) Upon completion of the audit design ^{as} required by Sections 1 through 4 of this act, the Department of Public Service shall present it to the ^{NR} Commission and consult with the Commission to determine what assistance the Commission is able to provide and when it may participate. In establishing the audit inspection teams under section 6 of this act, the department shall give

~~precedence~~ preference to Nuclear Regulatory Commission participation

participation & assistance

(c) If the NRC is unable to assist and participate in the audit, the department shall expand as

to greatest extent possible

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(1)

Sec. 6. AUDIT INSPECTION TEAM

(a) The department of public service shall empanel a team of a sufficient number of qualified consultants, experts, and technicians to conduct the independent comprehensive audit and reliability assessment required by this act. The inspection team shall be composed of employees of or consultants under contract with the federal Nuclear Regulatory Commission, if upon request of the department, the commission consents to participate in the audit and reliability assessment. Members of the inspection team who are employees or contractors of the Nuclear Regulatory Commission shall be unaffiliated with the regional office of the commission in the region in which the plant is located. The inspection team shall also include independent contractors selected by the department who have not worked for or at the Vermont Yankee facility, Entergy Nuclear Vermont Yankee, or any other nuclear power plant owned and operated by Entergy Nuclear Vermont Yankee or any of its affiliates.

(b) The audit inspection team shall periodically submit a report of its findings to the public evaluation panel and submit its final report of the comprehensive vertical audit and reliability assessment of the audit to the public evaluation panel before January 7, 2009.

Feb 15, 2009

* * * Public Evaluation Panel * * *

Sec. 7. PUBLIC EVALUATION PANEL

April 11, 2008

The Honorable James H. Douglas
Governor of Vermont
Montpelier, Vermont 05609

Dear Governor Douglas:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of March 12, 2008, regarding your concerns related to the safety and reliability of the Vermont Yankee Nuclear Power Station operation. Your letter noted that the partial collapse of a cooling tower cell and the unplanned reactor scram events from last summer have raised doubts and questions about the safety and reliability of the nuclear station and its operations. Your concerns are similar to those raised by the Vermont Congressional delegation. As such, the NRC staff has also engaged the Vermont Congressional delegation on how it intends to address these concerns, as discussed below. The NRC will continue to inform both you and the Vermont Congressional delegation of NRC activities relevant to these issues.

In your letter, you requested a reliability and safety assessment of the Vermont Yankee Nuclear Power Station. Your letter also requested that the NRC consult with the Vermont Department of Public Service in formulating the inspection program.

As you know, nuclear plant inspections and assessments are performed under the NRC's Reactor Oversight Process (ROP). The ROP is based on observable performance and is designed to be predictable (i.e., based on observed and documented performance, licensees will receive an appropriate level of regulatory oversight). The ROP requires that all nuclear plants receive at least the baseline inspection program. These baseline inspections are routinely performed by NRC resident inspectors and regional specialists to evaluate areas such as plant design, modifications, maintenance, and operations. The ROP is also flexible with respect to the timing and scope of some inspections. In that regard, NRC will work with you, the Congressional delegation, and other government officials within the ROP framework to respond to the areas of interest. The Vermont State Nuclear Engineer and a mutually acceptable consultant are welcome to observe any NRC inspection at Vermont Yankee in accordance with the existing Memorandum of Understanding between the NRC and the State of Vermont.

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areas
this*

Regarding your concerns with plant reliability, NRC regulations and its oversight process focus on nuclear safety and security, whether the facility is operating at power or shutdown. Thus the NRC's statutory authority does not extend to regulating the reliability of electrical generation from a nuclear power plant. The NRC recognizes, however, that there is some overlap between licensee performance attributes that result in safe operation and those that contribute to overall plant reliability. Therefore, the NRC safety inspections of Vermont Yankee may aid the State of Vermont in assessing the reliability of the facility in generating electricity.

- 2 -

As you may be aware, the NRC will conduct a public meeting in the Brattleboro area in May 2008 to discuss NRC staff's recently completed annual evaluation of Vermont Yankee's operational performance for the calendar year 2007. The associated annual assessment letter, issued on March 3, 2008, documents the staff's day-to-day ROP activities and states the staff's conclusion that Vermont Yankee is being operated in a manner that protects public health and safety. This meeting may provide an opportunity for the public to comment on the results of this annual assessment, as well as any matters pertinent to this letter.

If you have additional comments or questions, the NRC staff would be pleased to meet with you or your staff to discuss them.

Sincerely,

/RA/

Dale E. Klein

cc: The Honorable Patrick Leahy, U.S. Senator
The Honorable Bernie Sanders, U.S. Senator
The Honorable Peter Welch, U.S. Representative
The Honorable Gaye Symington, Speaker of the House
The Honorable Peter Shumlin, President Pro Tempore, Vermont Senate
The Honorable Anne Cummings, Chair, Senate Finance Committee
The Honorable Robert Dostis, Chair, House Natural Resources and Energy Committee
Mr. David O'Brien, Commissioner, Vermont Department of Public Service
Mr. James Volz, Chairman, Vermont Public Service Board

Act 189 of 2008

Committee Hearings (Mar.-Apr 2008)

Senate Finance

- **Jan** 29-31; **Feb.** 21, 26-27

House Natural Resources and Energy

- **Mar.** 20-21, 25-27; **Apr.** 2-4, 8-9, 11, 15-18, 22

Senate (Mar.-Apr 2008)

Senate Floor

- **Mar.** 11: Introduced by Senate Committee on Finance
- **Mar.** 12: Sen. Cummings reports for Senate Committee on Finance
- **Mar.** 13: Amendments considered and rejected; bill passed
- **Apr.** 28: Refused House amendment; appointed Committee of Conference

House of Representatives (Mar.-Apr 2008)

House Floor

- **Mar.** 18: Referred to House Committee on Natural Resources and Energy
- **Apr.** 21: Referred to House Committee on Appropriations
- **Apr.** 25: Rep. Klein reports for Committee on Natural Resources and Energy; Rep. Acinapura reports for Committee on Appropriations; amended and passed
- **Apr.** 29: Appointed Committee of Conference

Committee of Conference (Apr. 2008)

Committee of Conference

- **Apr.** 30: Resolves differences between Senate and House versions; drafts Committee Report
- **May** 1: Senator Cummings reports to Senate for the Committee of Conference
- **May** 1: House passes report of Committee of Conference

Enacted Jun. 5, 2008

The Vermont Legislative Bill Tracking System

Legislative History: Committee Meetings by Bill 2007-2008 Legislative Session

Committee Meetings where S.0364 was considered:

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **01/29/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC741 SERIES 018**
Public Record ID: **LC849**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Shumlin, Peter, Bill Sponsor, Senator, Windham County
Russell, Bill, Chief Legislative Counsel

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Vanags, Uldis, Nuclear Engineer, Department of Public Service
O'Brien, David, Commissioner, Department of Public Service

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Lew, David, Director, Division of Reactor Projects, Region 1, Nuclear Regulatory Commission - via telephone
Powell, Raymond, Branch Chief, Region 1, Nuclear Regulatory Commission - via telephone
McLaughlin, Marjorie, Regional State Liaison Officer, USNRC Region 1, Nuclear Regulatory Commission - via teleph
Pickett, Douglas, Lead Project Manager, Division of Operating Reactor Licensing, NRC Headquarters, Nuclear Regu
Commission - via telephone
Dusaniwskyj, Micahel, Lead Technical Reviewer, Division of Operating Reactor Licensing, NRC Headquarters, Nucl
Regulatory Commission - via telephone

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

McElwee, David , Senior Liaison Engineer, Entergy Nuclear Vermont Yankee

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

O'Brien, David, Commissioner, Department of Public Service

Complete Meeting Details

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **01/30/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC741 SERIES 018**
Public Record ID: **LC849**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Shadis, Raymond, Technical Consultant, New England Coalition
Lochbaum, David, Director, Nuclear Safety Project, Union of Concerned Scientists - via telephone (4:00 p.m.)
Anthes, Ed, Dummerston
Gundersen, Arnold, Nuclear Safety Expert, Burlington (4:30 p.m.)
Moore, James , Clean Energy Advocate, Vermont Public Interest Research Group
Morris, Gerry, Lobbyist, Entergy Nuclear Vermont Yankee

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **01/31/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC741 SERIES 018**
Public Record ID: **LC849**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **02/21/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC741 SERIES 018**
Public Record ID: **LC849**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Russell, Bill, Chief Legislative Counsel

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **02/26/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC741 SERIES 018**
Public Record ID: **LC849**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Volz, James, Chair, Public Service Board
Anthes, Ed, Nuclear Free by 2012 - via telephone
Shadis, Ray, Technical Consultant, New England Coalition - via telephone
Blanch, Paul, Nuclear Engineer and Consultant - via telephone

Complete Meeting Details

Meeting Details:

Committee(s): **S Finance**
Hearing Date: **02/27/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC741 SERIES 018**
Public Record ID: **LC849**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Morris, Gerry, Lobbyist, Entergy Nuclear Vermont Yankee
Metell, Mike, Project Manager for License Renewal, Entergy Nuclear Vermont Yankee
Stannard, Bob, Lobbyist, New England Coalition
Russell, Bill, Chief Legislative Counsel

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/20/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Cummings, Sen. Ann, Senate Committee on Finance

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/21/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Volz, James, Chair, Public Service Board

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/25/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Russell, William, Chief Legislative Counsel

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Hofmann, Sarah, Director, Public Advocacy Div., Dept. of Public Service

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/26/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Vanags, Uldis, Nuclear Engineer, DPS

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Vanags, Uldis, Nuclear Engineer, DPS

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **03/27/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Thayer, Jay, V.P. Nuclear Operations, Entergy-VT Yankee

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Young, Robert, President, CVPS

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Dutton, Chris, CEO, Green Mt. Power

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/02/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Whitley, Steve, Chief Operating Officer, ISO New England, Inc.

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**

Hearing Date: 04/03/2008
Hearing Type: Standard
Comment: CD SHEET PRA# LC740 SERIES 018
Public Record ID: LC845

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Saudek, Richard, Attorney and Consultant
Shadis, Ray, Nuclear Power Expert
Bradford, Peter, Adjunct Professor, VT Law School

Complete Meeting Details

Meeting Details:

Committee(s): H Natural Resources & Energy
Hearing Date: 04/04/2008
Hearing Type: Standard
Comment: CD SHEET PRA# LC740 SERIES 018
Public Record ID: LC845

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Gundersen, Arnold, Independent Nuclear Safety Consultant

Complete Meeting Details

Meeting Details:

Committee(s): H Natural Resources & Energy
Hearing Date: 04/08/2008
Hearing Type: Standard
Comment: CD SHEET PRA# LC740 SERIES 018
Public Record ID: LC845

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Smith, Rich, Dept. of Public Service
Vanags, Uldis, Dept. of Public Service

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/09/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Smith, Rich, Dep. Comm., DPS
Vanags, Uldis, Nuclear Engineer, DPS

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Smith, Rich, Dep. Comm., DPS
Vanags, Uldis, Nuclear Engineer, DPS
Anthes, Ed, Nuclear Free Vermont

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Kilian, Chris, Counsel, CLF

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Moore, James, VPIRG

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/11/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Russell, William, Chief Legislative Counsel

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Smith, Richard, Dep. Commissioner, Dept. of Public Service

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/15/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Russell, William, Chief Legislative Counsel

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Russell, William, Chief Legislative Counsel

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Smith, Rich, Dep. Commissioner, Dept. of Public Service

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/16/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Lew, David, Senior Manager, USNRC Region I

McLaughlin, Marjorie, Regional State Liaison Officer, USNRC Region I

S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN NUCLEAR FACILITY

Dreyfuss, John, Director, Nuclear Safety, Entergy Nuclear Vermont Yankee, LLC

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/17/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Russell, William, Chief Legislative Counsel

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Smith, Richard, Dep. Commissioner, DPS

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/18/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Hofmann, Sarah, Director, Public Advocacy, DPS

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Smith, Richard, Dep. Commissioner, DPS

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Russell, William, Chief Legislative Counsel

Complete Meeting Details

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/22/2008**
Hearing Type: **Standard**
Comment: **CD SHEET PRA# LC740 SERIES 018 (NO CD SHEET FOR THIS MEETING)**
Public Record ID: **LC845**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

Volz, James, Chairman, Public Service Board

Complete Meeting Details

Meeting Details:

Committee(s):
Hearing Date: **04/30/2008**
Hearing Type: **Joint**
Comment: **CD SHEET PRA# LC860 SERIES 018**
Public Record ID: **LC858**

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **H Natural Resources & Energy**
Hearing Date: **04/30/2008**
Hearing Type: **Standard**
Comment:
Public Record ID:

Meeting Record:

**S.0364 - A COMPREHENSIVE VERTICAL AUDIT AND RELIABILITY ASSESSMENT OF THE VERMONT YAN
NUCLEAR FACILITY**

[Complete Meeting Details](#)

Committee of Conference - Act 189 of 2008

As recorded on April 20, 2008

Janice D. Badeau
17 Beacon Street
Barre, Vermont 05641
janicebadeau@charter.net
(802)476-6281

1 April 30, 2008

2 (Begin Recording.)

3 Track 2

4 Minute 2:31

5

6 (Transcriber note: There were several parties present
7 at this hearing. Speakers' names were used whenever
8 possible, but in the instances where they were not
9 identified or could not be discerned by the transcriber,
10 generic terms were used.)

11

12 UNIDENTIFIED MALE SPEAKER: Okay. I
13 prepared this comparison using the sections of the House
14 strike all and I'll make reference to the -- where the
15 Senate provisions are. And the first -- the first
16 provision or Section 1 of the Senate -- or the House
17 bill is pretty much the same as the Senate with respect
18 to legislative intent and purpose. It states that the
19 purpose of the audit is to inform the legislature to
20 determine whether or not Yankee should be extending
21 operations beyond March 12th, 2012. The House version
22 differs slightly in that we use the term in the House
23 reconfirm the legislature's authority to do this rather
24 than vesting it, because it was confirmed in a previous
25 statute.

1 Paragraph (b) of the Section 1 of the
2 house version was suggested by DPS -- or, I'm sorry, is
3 -- is also the same as the Senate and we've retained
4 what was once controversial beyond its 40-year design is
5 in it and it's not beyond its operating license. That
6 was a controversial issue in both -- both bodies, so we
7 retained the Senate language on that.

8 SENATOR CUMMINGS: Okay.

9 UNIDENTIFIED MALE SPEAKER: The third
10 paragraph in legislative intent, Section 1 --

11 UNIDENTIFIED MALE SPEAKER: Bill,
12 could you speak up a little?

13 UNIDENTIFIED MALE SPEAKER: Okay.
14 This doesn't do it, does it?

15 SENATOR CUMMINGS: No.

16 UNIDENTIFIED MALE SPEAKER: Just the
17 crowd behind you is --

18 UNIDENTIFIED MALE SPEAKER: Yes.

19 UNIDENTIFIED MALE SPEAKER: -- having
20 trouble hearing you, that's all.

21 UNIDENTIFIED MALE SPEAKER: Section
22 1-C of the House is new to the House version. It was
23 suggested by the Department as language to make clear,
24 even again, that the purpose was to be within the area
25 of jurisdiction of the State which is reliable source of

1 power for economic reasons. It's a restatement.

2 The Section D --

3 UNIDENTIFIED MALE SPEAKER: So that's
4 just an addition.

5 UNIDENTIFIED MALE SPEAKER: Yes. It's
6 an addition, but it isn't conflicting with anything that
7 the Senate had done in theirs.

8 Subsection (d), this is also new to
9 the House. It just sets out what is -- what we are in
10 the House bill calling the reliability assessment.
11 It -- the -- it sets out the goals and objectives, which
12 I'll get to in a second, which are pretty much identical
13 to the Senate; the reliability of the systems, which are
14 pretty much identical to the Senate; what audit
15 inquiries are going to be in it and those are from the
16 Senate; and the methodologies, and they differ slightly,
17 and I'll get to that in a minute.

18 UNIDENTIFIED MALE SPEAKER: Okay. So,
19 are there any questions on Section 1?

20 SENATOR CUMMINGS: So far (inaudible).

21 UNIDENTIFIED MALE SPEAKER: If I could
22 just comment, the reason why we can see, and actually,
23 we had a lot of discussion in Committee, making sure
24 that the record reflected that we were looking at the
25 reliability of this plant because of the potential

1 economic impact it will have on the State of Vermont.
2 That is our purview and we just want to make it clear,
3 both in writing and on the record, that that is our
4 interest.

5 SENATOR CUMMINGS: Okay.

6 UNIDENTIFIED MALE SPEAKER: And I just
7 did it again, for the record.

8 SENATOR CUMMINGS: Okay. It's on the
9 record.

10 UNIDENTIFIED MALE SPEAKER: Carry on,
11 Bill.

12 UNIDENTIFIED MALE SPEAKER: Okay.
13 Goals and objectives. This is, basically, the Senate
14 again. There are a couple of changes. One is that
15 there's an introductory clause saying -- giving due
16 consideration to the areas consistent with the
17 legislature's interest. Again, suggested by the
18 Department as keeping on-line -- on-message with we're
19 looking at reliability and we're not looking at safety.

20 There's a couple of changes. We're
21 assessing operating it up to 120 percent. I think the
22 Senate had both 100 and --

23 UNIDENTIFIED MALE SPEAKER: Right.

24 UNIDENTIFIED MALE SPEAKER: -- 120
25 percent. The debate in the House was that 120 percent

1 was conclusive -- was, you know, inclusive of that. So
2 that's a difference.

3 The last change, assessing the
4 facility's reliability for continued power production I
5 think is just an editorial addition.

6 SENATOR CUMMINGS: Where are you?

7 UNIDENTIFIED MALE SPEAKER: Three.

8 UNIDENTIFIED MALE SPEAKER: Three.

9 UNIDENTIFIED MALE SPEAKER: That's in
10 -- that's in three.

11 UNIDENTIFIED MALE SPEAKER: Okay. So,
12 before you go to Section 3, anything to flag on Section
13 2?

14 SENATOR CUMMINGS: Yeah, I think the
15 reason that we had 100 and 120 --

16 UNIDENTIFIED MALE SPEAKER: That's
17 right.

18 SENATOR CUMMINGS: -- was that it
19 might be reliable to go forward at 100 percent of
20 production but not 120. Just a thought that maybe we
21 should look at both.

22

23 Minute 7:13

24 (Thereupon, the desired portion concluded.)

25

Vermont State Senate - Act 189 of 2008

As recorded on March 12, 2008

Janice D. Badeau
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1 The ayes have it. You've taken up S.364 for second
2 reading. An act relating to comprehensive vertical
3 audit and reliability assessment of Vermont Yankee
4 nuclear facility. It was introduced into Senate on
5 March 11th, 2008, by our Committee on Finance. Please
6 listen to the second reading of the bill.

7 UNIDENTIFIED MALE SPEAKER: Act 364,
8 an act relating to comprehensive vertical audit and
9 reliability assessment of the Vermont Yankee nuclear
10 facility.

11 PRESIDENT: And now you've heard the
12 second reading of the bill from the report of your
13 Committee on Finance. Chair recognizes the Senator from
14 Washington, Senator Cummings.

15 SENATOR FROM WASHINGTON: Thank you,
16 Mr. President. I -- I will say starting out, this
17 really is a simple little bill. Most of it is in the
18 findings of the Committee. Mr. President, I wasn't
19 expecting you to be presiding, so I will have to change
20 my analogy back from Bantam Jets and B-52 Bombers to
21 describe what this bill is dealing back to.

22 PRESIDENT: All I ask is that you do
23 better than a Senator from Bennington did yesterday with
24 his analogies.

25 SENATOR FROM WASHINGTON: Okay. I

1 will try. As you know, Mr. President, during the next
2 biennium, the legislature will have to decide on the
3 issue as to whether or not any nuclear facility shall be
4 allowed to continue in the State of Vermont,
5 particularly Vermont Yankee. And Vermont Yankee at that
6 point will be at 100 percent of its designed capacity
7 and so we have a plant that will be asking to run at 150
8 percent of its designed life and at 120 percent of its
9 designed production. And the analogy in our committee
10 is this is something like a 70 year old person coming in
11 and saying to the doctor, I want to start running
12 marathons. Well, you know, before you do that, you
13 would hope that you would have a very thorough physical
14 to make sure --

15

16 End Track #3

17 Begin Track #4

18

19 -- sure that all your parts and joints and heart and
20 lungs -- all your systems are ready to do this. It
21 would be a very different physical than the kind you
22 would give a 16 year old who comes in and says, "I want
23 to play high school sports. And that's what this bill
24 attempts to resolve, Mr. President, is -- and it's
25 actually very simple, unless you read Section 1. What

1 for most of the Committee, the answer as to how reliable
2 this plant is, is critical for me in making that
3 decision next year as to whether or not to relicense.
4 And we need to know before we do that, is that plant
5 reliable? Is it going to be able to provide us with the
6 energy that we expect for the next 20 years or 10 years?
7 We're quite cognizant of the fact that, to not relicense
8 will have some significant economic impacts on this
9 state. But if we relicense and it's not a reliable
10 plant and it shuts down two years, three years, five
11 years afterwards, we're going to face those same
12 economic conditions. We need to go -- going forward, if
13 it's reliable. If it's not, what it will take to make
14 it a reliable source of energy. And how do you do that?
15 The -- the solution we have come up with and -- is the
16 most comprehensive we could find, the best physical,
17 probably the best hospital is this comprehensive
18 vertical analysis. And so that's what this bill
19 proposes. Most of this bill describes a comprehensive
20 vertical analysis and what it -- what it will look at
21 and what it will be part of.

22 The second set of the bill directs the
23 Department of Public Safety to empanel a group of
24 experts. They can be from the NRC. They can be -- it
25 is possible that some pieces or all of the NRC's recent

1 my gratitude to the Committee for taking it so seriously
2 and putting the depth of -- getting to the depth of
3 understanding that they did. So I would just like to
4 say that and encourage the body to vote for it. Thank
5 you.

6 PRESIDENT: So the pending question is
7 shall S.348 be read a third time. The Chair recognizes
8 the Senator from Essex-Orleans, Senator Starr.

9 SENATOR FROM ESSEX-ORLEANS: Thank
10 you. May I inquire of the Reporter?

11 PRESIDENT: The Senator from
12 Washington will be interrogated.

13 SENATOR FROM ESSEX-ORLEANS: Mr.
14 President, I was wondering, looking through this, it
15 looks like we're -- we're going to assemble a group of
16 professionals to do the -- the investigation and do the
17 study. And then we're going to appoint somebody to
18 analyze what the professionals tell us. And so why
19 don't we -- my question is, why don't we just have the
20 professionals tell us what they found and instead of
21 incorporating these non-professionals into interpreting
22 what the professionals have found and have them tell us
23 the -- the answer. That's one question.

24 And the second question, I noticed at
25 the end of the bill, the cost of all this is going to be

1 passed onto the petitioner, but I was just curious -- I
2 would be curious to know, it's going to cost -- what
3 it's going to cost.

4 SENATOR FROM WASHINGTON: Okay. First
5 -- second question first. This could cost up to 25
6 million dollars. It will --

7 SENATOR FROM ESSEX-ORLEANS: Did I --
8 I didn't hear you, I don't think.

9 SENATOR FROM WASHINGTON: You did.
10 Twenty-five million. To -- to just put that in
11 perspective, Entergy costs, when Vermont Yankee was
12 bought for 182 million and at Fitch ratings, which I
13 guess is the standard rating, now rates it at 972
14 million. That's it's value. Plus, that's increasing.
15 As the cost of energy increases, they aren't paying for
16 oil, but they are selling on that market that is being
17 inflated by the cost of oil and natural gas. So the
18 value of this plant is escalating. The money is there.

19 They are also -- what makes it
20 critical is that there is, and we, hopefully, will be
21 bringing you a companion bill this week, some structural
22 changes which could severely limit Vermont's ability to
23 recoup any damages or -- and could have some very
24 serious affects on our decommissioning fund if this
25 restructuring of the corporation is allowed to go

1 through. So, we want to make sure, as we go forward,
2 that we are -- you know, that we are being left with a
3 healthy plant because, once that plant shuts down, it
4 has nothing. It has no assets and there's a chance we
5 could be left with it.

6 It could be. That's the highest
7 estimate we've heard.

8 A large number of this may well be
9 able to be taken from the NRC safety study that they
10 just did with oversight and check that.

11 We're trying to deal with two things
12 here. One is the concern that the NRC is too quick to
13 rubber stamp and the public kind of distrust. You know,
14 well, this is a safe plant but the cooling tower has
15 fallen down, calls into question the whole kind of
16 culture of safety that might be going on --

17

18 End Track #6

19 Begin Track #7

20

21 -- on there, why -- you know, so NRC says that's not
22 part of the nuclear system, so we didn't do it. Well,
23 why didn't the plants preventive maintenance people find
24 it? So we're trying to do that kind of oversight, which
25 is the reason for the -- the panel. And to have the

1 experts tell us what we've found, you know, you're --
2 you may have 25, 30 experts in this field and only three
3 of them may show up onsite. So we need this -- this
4 kind of -- we envision two experts and somebody like
5 Moses or Solomon who can sit in the middle of this thing
6 and, you know, but have the public confidence so that
7 when we know, you know, when these people look at it and
8 say, yeah, they did the check-back, they didn't just
9 rubber stamp, they did actually go and look at this
10 metal fatigue and they -- they did this, that -- these
11 are the folks that work for us. What we've found going
12 through this, and you may have caught that there's been
13 some tension in our committee, is that we are just
14 finding out things now like that it is possible that
15 this plant could be mothballed for up to 60 years before
16 it finally decommissioned. That, apparently, was agreed
17 to back during the time of the sale. But it's never
18 really been -- you know, it's never really been brought
19 to our attention until now. And so, you know, that was,
20 I believe, 1992 that it sold. So there's some concern,
21 you know, that we are going home and this inspection
22 will take place when we aren't here. All those experts
23 won't be here next January. We need people that are
24 outside that inner circle that can work for us and
25 that's why this structure has been set up.

1 SENATOR FROM ESSEX-ORLEANS: Thank
2 you, Member. Mr. President, I -- maybe I fooled around
3 in private business too long, but I would expect, if I
4 was hiring somebody to analyze a project and could cost
5 up to 25 million dollars, I would expect in that 25
6 million dollars, I would receive a very thorough report.
7 I would expect to receive a summary of that report that
8 maybe I could skim through in an hour or two and get a
9 rough idea, or if I wanted to read the full report. But
10 I would doubt very much if I would want to hire a team
11 and spend 25 million dollars and then hire another team
12 to figure out what the first team said and put it into a
13 language that I could understand.

14 I -- I'm maybe missing something here,
15 but I think that is totally unacceptable. The -- the
16 team of experts, if they aren't capable of writing their
17 report in the 25 million dollars, they ought to be able
18 to afford to have a team of writers on staff that could
19 write a report for us.

20 Secondly, I'm wondering, if this is
21 really a study to determine the safety of Vermont Yankee
22 or is it a way to maybe chase them out of the state
23 because it's going to be so costly that maybe it will be
24 cheaper just to mothball the place and not operate and,
25 if that happens, I mean, we've talked to -- the reporter

1 of the bill talked a little bit in regards to the cost
2 of the energy that's produced there. Well, I think last
3 year we talked about something -- the rate at Entergy or
4 something in the four to five cent per kilowatt hour.
5 Well, that's much cheaper than any other energy that we
6 buy. We can depend on it each day. We don't have to
7 worry if the wind is blowing or not blowing to get power
8 from them. I think they have been a real asset to the
9 State of --

10

11 End Track #7

12 Begin Track #8

13

14 -- Vermont. And as great as business is here, I mean, I
15 am sure that we're all right out straight at our
16 businesses back home -- well, I kind of doubt that. I
17 don't think we can afford to chase any business out of
18 Vermont. Yes, we want our businesses to be safe. We
19 want them to be healthy and provide a good service, but
20 just because there's a few people that totally dislike
21 and have no use for nuke power, it doesn't mean that we
22 should, you know, chase them out of here because of
23 demanding certain studies and -- and making it such a
24 financial disincentive that it -- it makes it hard for
25 them to continue. In some cases in Vermont, we have the

1 same process in other permitting situations where
2 companies want to come here, but when they start
3 analyzing how much it's going to cost to acquire all the
4 different permits that they need, they use one of those
5 nice, new bridges that we helped pay for and go across
6 to New Hampshire or use one of the other bridges that
7 we've helped pay for and go over to New York State. And
8 electric power is something that's critical to our
9 economic welfare and our economic standing and -- and
10 our survival and it's -- you know, the folks here that
11 support wind power, I mean, they're dreaming. And it's
12 nice to have dreams and -- and think that everything's
13 going to be sunshine and rosy when the turbines turn and
14 we're going to get our power from there, but it's not
15 going to happen. It's either going to come from a
16 fossil fuel plant, nuclear hydro, wood chips, things of
17 that nature, and I really question -- I -- I know we
18 want to make sure that this plant is safe and but I --
19 the process that we're going through to get there is
20 very cumbersome and I really question whether we need a
21 process that cumbersome.

22 PRESIDENT: Chair recognizes the
23 Senator from Washington, Senator Cummings.

24 SENATOR FROM WASHINGTON: Thank you,
25 Mr. President. Let me stress that the 25 million was

1 the highest estimate we got. Our thoughts are, we've
2 had as long as six to eight million. It looks like a
3 great deal of the work has already been done by the NRC
4 and could be used as a part of this report.

5 We have been somewhat hampered in
6 getting this bill out in that the Department of Public
7 Service was not allowed to speak to us for a week or so.
8 We had a little tiff with the Commissioner. He banned
9 his staff from speaking to us. So we have kind of been
10 working with one hand tied behind our back on this one.
11 We couldn't quite get all the information we needed.

12 This bill is -- we understand. And I
13 would like to say, personally, I am not doing this will
14 with any intention of putting Vermont Yankee out of
15 business and I don't think that that is the intent of
16 the members of the Finance Committee. What we're trying
17 to determine is that, going forward, is it reliable?
18 And yes, there will be economic costs, if it's not
19 reliable. We know that. But if it's not reliable and
20 it shuts down in two years, there will be the same
21 economic costs. And it -- or if it shuts down in three
22 years or five years. At some point, those economic
23 costs will hit us.

24 There's also an economic cost to
25 having something go wrong at that plant that we missed.

1 We have based a great deal of our economic development
2 on the Vermont Seal of Quality, Vermont Pure. You know,
3 Vermont Green, all of those things. Well, having a
4 nuclear incident will, you know, severely tarnish that
5 public image and we're also cognizant of that. But
6 mostly it is a feeling that we need to know. We may
7 well say this and say, yeah, it's probably only reliable
8 for another three or four or five years and, still, it's
9 our choice to go forward with that license. I assume
10 that in the next biennium, we will be measuring whatever
11 this report and all the other reports --

12

13 End Track 8

14 Begin Track 9

15

16 -- that are out there come back and tell us against the
17 economic costs and the pros and cons and we will all
18 reach a decision and when we make a decision to
19 relicense. This is merely trying to get us the best
20 information that we can at a time -- in a timely fashion
21 so that we know -- I don't know how I could make a
22 decision as to whether or not to relicense this if I
23 didn't know that this plant was reliable and was capable
24 of doing what we're going to be asking it to do.

25

Right now, we've been told it is

1 producing at something like 99 percent of capacity and
2 we know 90, 95 -- the Senator from Orange is cuing me.
3 It's -- it's up there. It's operating almost at full
4 capacity. It's an old plant and that's at 120 percent
5 of its design. How long can it do that? We don't know
6 that and so that's what we're trying to find out, is how
7 long can this plant, you know, is -- is -- should we be
8 putting all our chickens in this basket again? Is it --
9 is -- or is there a big hole in the bottom of that
10 basket and that's what this seeks to find.

11 PRESIDENT: Chair recognizes the
12 Senator from Caledonia.

13 SENATOR FROM CALEDONIA: Thank you,
14 Mr. President. May I interrogate the Reporter?

15 PRESIDENT: The Senator from
16 Washington will be interrogated.

17 SENATOR FROM CALEDONIA: I know
18 analogies are very useful, but I got confused between
19 the 70 year old man and the B52's and youth going out
20 for sports and then the reference to the Senator from
21 Bennington. Let me really confuse you. I have two
22 questions. One is -- and I agree with -- with most of
23 what my colleague from Essex-Orleans mentioned. But am
24 I to assume that the -- the report would be concluded
25 before the summer and January?

1 until we actually have someone start at that bottom,
2 which is what this will look at, and look at its
3 designed capacity, and then look at, you know, was it
4 built to that design and has it been modified since --

5

6 End Track #9

7 Begin Track #10

8

9 -- and, you know, take a real close look at this plant,
10 we won't know if it's going to be reliable. And again,
11 we are not looking at safety. We are looking at
12 reliability. There -- there is some connection, but we
13 are really concerned on finance. The NRC can tell you
14 if they think it's safe. We need to know if it's
15 reliable going forward. Because once -- you know, we're
16 all human. Once we have this thing under contract for
17 another five years or 10 years, kind of that pressure to
18 find an alternative, we'll relax a little bit and we
19 probably won't be looking quite as hard until it fails
20 or until another license comes up. So this is our --
21 this is our look-see as to how reliable that plant is.

22 SENATOR FROM CALEDONIA: One last
23 question and a point. My -- my question is that, and
24 you -- I think you mentioned that, when they applied for
25 their license, they applied for a 40-year license. That

1 SENATOR FROM CHITTENDEN: May I
2 interrogated the Reporter of the bill?

3 PRESIDENT: The Reporter of the bill
4 will be interrogated.

5 SENATOR FROM CHITTENDEN: I have a
6 practical question and I just want to understand the
7 dates. It seems we are a little late to have this study
8 and it -- you've done a lot of work to do this study,
9 But are my dates right, that -- is January 7th, 2009,
10 when you're going to get the results of the study?

11 SENATOR FROM WASHINGTON: It will
12 probably be a little later than that. It will -- it
13 will depend, once they get started, on how much they can
14 use from present documentation and not. But there's a
15 good chance it will not be in before late next year.
16 Late in the session next year.

17 SENATOR FROM CHITTENDEN: Late '09.

18 SENATOR FROM WASHINGTON: Right.

19 SENATOR FROM CHITTENDEN: So, by 2010,
20 we're going to have to make a decision.

21 SENATOR FROM WASHINGTON: Yes.

22 SENATOR FROM CHITTENDEN: Because it's
23 in the biennium. And then in 2012, March 21st, as I
24 read this document, that operational license -- so we
25 have less than two years, if we -- if it comes back that

1 it is not appropriate to do what they want to do, that
2 we have less than two years to buy a third of our energy
3 for the State. So I -- I just needed to understand that
4 and I'm also wondering about, which is not attached to
5 this bill, but in a midterm look at our state and our
6 energy needs, that there will be people looking at what
7 power are we going to do or open to buy? With the
8 decommissioned plant and/or a commissioned plan,
9 because, in reality, we have to be planning that it may
10 go either way and it seems that this is a very, very
11 tight timeline to secure the economic sustenance of our
12 state.

13 SENATOR FROM WASHINGTON: Mr.
14 President, this is a tight timeline, but we have been
15 aware forever, since this -- for 40 years -- that this
16 day was coming. And the Department of Public Service is
17 responsible for doing the long-range energy planning for
18 the state. I don't think it's any secret that the
19 finance committee has had some major issues with that
20 planning. We know that utilities are also planning in
21 case this property doesn't -- you know, that this
22 license isn't renewed. And it's not just this body. It
23 is also the Public Service Board who must give them a
24 certificate of public good.

25 Yes, this could be a crisis, but

1 again, if we license it and it's not reliable and
2 something happens in two years and it has to shut down,
3 we are in the same place. And if something really bad
4 happens, the economic impact on Vermont Pure, Vermont
5 Green, and all the rest of it, could also be dramatic.
6 And so we are between a rock and a hard place. I think
7 this is trying to get the information we need to make a
8 rational decision. Without this information, we'll all
9 have to kind of go on our gut sense. I like it. I
10 trust it. I don't like it. I don't trust it. We're
11 trying to get that. And the Senator from Windsor
12 mentioned that both the Governor and our legislative
13 delegation had called for -- and the important word to
14 remember is what they all called for, was an independent
15 assessment. That there's some real concern at all
16 levels about the reliability of the assessments we're
17 getting and that's why there's that panel there to do
18 it. Thank you.

19 PRESIDENT: Senator, I just want to
20 remind you, if you're interrogating a Senator, stay on
21 your feet until you have finished, because you really
22 have the floor. Just so everyone remembers that.

23 SENATOR FROM CHITTENDEN: Thank you.

24 PRESIDENT: The Chair recognizes the
25 Senator from Rutland, Senator Maynard.

1 plant down in Vernon be relicensed? And when I went
2 around from town-to-town and people asked me should it
3 be or shouldn't it be, I would say, "I don't know." I
4 don't know.

5 The Governor called for an inspection
6 two years ago and VSNAP called for an inspection two
7 years ago. This body called for an independent
8 inspection two years ago in a resolution that passed
9 this body and there was an inspection two years ago.
10 And since then, as the Chair has pointed out, there's
11 been some pretty great newspaper pictures of the tower
12 falling in and perhaps more -- things of more concerned,
13 of the emergency valves being wrapped with hammers when
14 they didn't work which caused the plant to shut down
15 quickly. That was since we had an inspection that was
16 not to the level that had originally been called for.
17 Every time a different group two years said they wanted
18 an independent inspection, the inspection got less and
19 less and less and less.

20 So here we are back at two years from
21 now and we're being asked to, by the same people, to
22 perform an inspection that we thought we'd done a couple
23 years ago. And some folks referred to it as restoring
24 public confidence and I -- Mr. President, restoring
25 public confidence is a public relations thing. We need,

1 to the best of our ability, to come to, individually, to
2 whether or not we think the place is sound. Because, as
3 the Representative from Chittenden pointed out in a
4 couple of her questions, if we find it's unsound later,
5 my goodness, we're in a big financial hole, because we
6 will not have planned ahead. If we find out it's
7 unsound earlier, that's bad news. But the ability to
8 deal with it would have more -- more lead time.

9 Why would it be -- a report be
10 available in the timeframe that the Chair has called
11 for? The plant is scheduled for refueling next fall and
12 refueling is a good time to take off the tires and look
13 at the brakes and do the things that are called for in
14 here. And shortly within what is possible after that
15 time a report could be presented that we can make a
16 decision whether our opinion is sound or unsound.

17 Mr. President, on a personal note,
18 I've been characterizing someone who's been against the
19 plant who would like to see it closed down, etcetera.
20 And I, of course, think that's unfair to be considered
21 that way. But my -- my frustration in trying to find
22 out how things sound, how much money is available, what
23 will an inspection provide. I have been -- I -- I have
24 come to not --

25

1 End Track 13

2 Begin Track 14

3

4 -- believe or trust the answers that we all receive.

5 That the answers that we get tend to serve what the

6 industry would like to have served when we get those

7 answers. And two years later, we find out that perhaps

8 things have changed. And -- and that -- and there's a

9 pattern to that. And that's my personal frustration.

10 I would be pleased with a study that
11 confirmed that the 99 percent on-duty and rare sick
12 calls was based on sound management and an inspection of
13 the tires and the brakes that held up and that we could
14 be assured to do as well as anybody, the State could be
15 assured that we have a reliable plant that serves the
16 economic future that has been called for by -- by the
17 Senator from Essex-Orleans.

18 So we're -- we're pretty much where we
19 were two years ago. The big difference is that two
20 years ago we had two more years to plan and two more
21 years to make the difficult choices, should things turn
22 out to be not as well as we all hoped that they would
23 be.

24 I hope, Mr. President, that -- that
25 this time, when we perform -- have a -- have a study

Vermont State Senate - Act 189 of 2008

As recorded on March 13, 2008

Janice D. Badeau
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1 reading of S.364.

2 UNIDENTIFIED MALE SPEAKER: S.364, an
3 act relating to a comprehensive vertical audit and
4 liability assessment of Vermont Yankee Nuclear Facility.

5 PRESIDENT: The Chair recognizes the
6 Senator from Essex-Orleans, Senator Starr. Thank you
7 for that.

8 SENATOR FROM ESSEX-ORLEANS: Thank
9 you. Yesterday, we had some discussion in regards to
10 S.364 and I was really impressed with the -- with the
11 vote at the end. The -- this is -- this is an issue
12 about our power and the future of -- of our economic
13 viability and wellbeing. It is probably one of the most
14 important issues that we'll talk about this year, next
15 year, and possibly even the year after. Cheap power or
16 affordable power, I should say, is critical to -- to
17 that. This -- this organization has been supplying us
18 with a third of our power for many, many years, which
19 under debate yesterday was reported to be 98 or 99 --

20

21 End Track 3

22 Begin Track 4

23

24 -- percent efficient in their everyday, 24 hours a day,
25 seven days a week. And -- and how -- how important this

1 reasonable power is to our mix of power to make it
2 viable for companies and businesses to survive here.

3 Yesterday, I don't know if we were
4 trying to get ahead of somebody else or somebody else
5 was trying to get ahead of us, but I -- I really don't
6 really care who is trying to get ahead of who
7 politically. Politics should not even enter into this
8 discussion. It's a discussion about -- it should be a
9 discussion that we should all take part in, regardless
10 of what party we belong to, about the safety of this
11 facility, about the cost of power to our citizens and,
12 if we are going to be able to attract new businesses --
13 well, better than attracting new businesses, what about
14 keeping the ones we have already with affordable energy?
15 And the Governor or the Executive Branch, I should say,
16 I guess, to be politically correct, has requested
17 that -- requested from the NRC that we be given the
18 opportunity to have an independent study of this
19 organization and -- and I think that's good.

20 We asked to have an independent study
21 done of the organization and then another group of
22 people to interpret the study to -- so we can understand
23 it.

24 I guess what I would like to do and
25 what I would like to propose is that we postpone action

1 strong motivation to keep that plant running on both
2 sides. But if that plant is not reliable, this State is
3 going to pay either now or five years from now or five
4 days from now when it shuts down, if we don't do
5 something in alternative energy planning. This just
6 gives us the information we need to make a rational,
7 realistic decision on the ability of that plant to
8 perform into the future. So I would say that this bill
9 is not incompatible with the Governor's request and I
10 would ask us to go forward because this fills out what
11 the legislature means by an evaluation and what the
12 legislature means by independent. Thank you.

13 PRESIDENT: The Chair recognizes the
14 Senator from Bennington, Senator Sears.

15 SENATOR FROM BENNINGTON: Mr.
16 President, I wonder -- I mean, I have before me an
17 article from the Burlington Free Press, which I know we
18 don't -- but the first paragraph says Governor Jim
19 Douglas decided Wednesday to jump-start the process of
20 an independent assessment. The Senator from Washington
21 just said that the Governor's letter does not include an
22 independent assessment. So I wonder if the rest of the
23 Senate could available themselves of the Governor's
24 letter before we vote on the Senator from Essex-Orleans'
25 motion?

1 SENATOR FROM WINDSOR: Mr. President?

2 PRESIDENT: The Chair recognizes the
3 Senator from Windsor, Senator Campbell.

4 SENATOR FROM WINDSOR: If I could ask
5 for a -- a very brief recess.

6 PRESIDENT: Senate will stand in
7 recess until fall of the gavel.

8 (WHEREUPON, a break in the proceedings occurred.)

9

10 End Track 5

11 Begin Track 6

12

13

14 PRESIDENT: Senators, please come to
15 order. I understand that a letter is being distributed
16 from the Governor. I just want to remind Senators that
17 we are an independent branch of government and, as much
18 as possible, caution you that we do act independently
19 and, therefore, what the other branch might say is
20 usually -- is not intended, according to the rule here,
21 to affect our discussion. So discuss it carefully.

22 The Senator from Bennington had the
23 floor. I assume he's yielded the floor. So the Chair
24 recognizes the Senator from Rutland, Senator Mullin.

25 SENATOR FROM RUTLAND: Thank you, Mr.

1 President. The Rutland County Delegation had the
2 privilege to meet with representatives from our -- our
3 local utility yesterday morning. And for the first
4 time, we were able to hear their concerns about the
5 length of time that the audit may require as outlined in
6 S.364. I don't think anybody in this room is opposed to
7 a thorough and an independent review. In fact, I think
8 we all support a thorough and independent review. But
9 that being said, the -- the importance is that it's a
10 timely and thorough review so that we can move forward
11 with Vermont's energy future. And there are some
12 concerns that, if we delay this out a couple of years,
13 that it could impact the renegotiations with Hydro
14 Quebec.

15 So there -- there are sufficient
16 concerns to Vermont rate payers that we move forward in
17 a timely manner.

18 And I just want to address the
19 statement by the Chair of the Committee about
20 independent. Because clearly, at the bottom of
21 paragraph four in this letter from the Governor it says,
22 "I also expect the assessment include the participation
23 of the Vermont State nuclear engineer and consultants
24 and those NRC inspectors and contractors have
25 independence from the Vermont Yankee operation. So

Vermont Act 189 of 2008

1 February 29, 2008

2 Senate Finance Committee Disk 27/Track 3

3 (Transcriber note: There were several parties present
4 at these meetings. Speakers' names were used whenever
5 possible, but in the instances where they were not
6 identified or could not be discerned by the transcriber,
7 generic terms were used.)

8 Begin Minute 3:00

9 UNIDENTIFIED MALE SPEAKER: -- the
10 problems that may be caused financially or not -- or the
11 federal government not (inaudible) responsibilities
12 (inaudible). Emergency management costs and down time
13 costs. And as I say, the studies have been begun. I
14 don't know -- the Department will have to tell you the
15 status of them. They are not specifically directed at
16 safety and so, although these studies will relate to
17 safety inasmuch as they may indicate that there are
18 costs and financial responsibilities that the
19 legislature can evaluate, they are not specifically
20 (inaudible) safety. There are going to have to be three
21 public engagement hearings. I understand those, too,
22 are being planned and they may be this spring. So you
23 should be aware that those are going (inaudible).

24 Sorry.

25 End Minute 4:00

[Disk 27 at Track 1, 4:30]

SENATOR CUMMINGS: Safety is outside the purview of the State of Vermont but as we heard in Maine that when you start looking at the economic aspects of having a plant, we need to know to go forward, that that could become something that's untenable, uneconomical, so we're going to be looking at this issue.

1

2

January 29, 2008

3

Senate Finance Committee Disk 28/Track 5

4

Begin Minute 00:00

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6

MR. POWELL: -- did provide written approval (inaudible). (Inaudible) base its decision on review of the technical and financial qualifications of the proposed action.

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With regard to the federal qualification review, (inaudible) determined that the proposed (inaudible) will not affect the (inaudible) qualification of Entergy (inaudible) operations as a licensed operator and otherwise does not raise any (inaudible) qualifications issue. (Inaudible.) No changes in the officers or personnel responsible in the facility and no changes in the day-to-day operations of the facility. Entergy (inaudible) operations will at all times remain the licensed operator of the (inaudible) licensed facility.

20

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With regard to the financial qualification review, Entergy must demonstrate that (inaudible) or have reasonable assurance of obtaining the necessary funds (inaudible) operating costs (inaudible). (Inaudible) Entergy must provide reasonable assurance that funds will be available to

1 decommission the facility. (Inaudible) the Entergy
2 staff must determine that Entergy (inaudible)
3 requirements. Entergy's application is currently under
4 review by the NRC staff. On January the 16th, 2008, NRC
5 published notices in the federal register concerning
6 proposed restructuring. (Inaudible) provide the
7 opportunity to members of the public to request a formal
8 hearing on the proposal (inaudible) for our
9 consideration. The NRC staff anticipates completing
10 this review during the spring of 2008. (Inaudible)
11 concludes my prepared statement and Mr. Dusaniwskyi and
12 I are now available to answer any questions you may
13 have.

14 SENATOR CUMMINGS: Okay. Thank you.
15 I guess the concern on this end as it's developing is,
16 (a), is the transfer in any way -- if one of these
17 smaller companies went belly-up, would -- and the
18 decommissioning fund wasn't adequate or wasn't there,
19 would Entergy be protected from the State or I think
20 we're getting very concerned about the -- the
21 decommissioning fund and what happens in 2012. That if
22 there's any way that Entergy could walk away from this
23 (inaudible) and leave Vermont literally holding the bag
24 with a bunch of radioactive (inaudible) and a plant.

25 MR. DUSANIWSKYI: Senator, this is

1 Michael Dusaniwskyi again. Unfortunately, the question
2 that you are asking is of a legal nature for which we
3 have no representation here --

4 CHAIRMAN: Okay.

5 MR. DUSANIWSKYI: -- allowing to
6 answer.

7 CHAIRMAN: We've been trying to find a
8 corporate attorney, but we haven't come up with one yet,
9 so --

10 MR. DUSANIWSKYI: But I can tell you
11 that from a -- from what the regulations require, at
12 this time, if Vermont Yankee is denied a license
13 renewal, we are only anticipating in doing our
14 calculations as to whether or not they will be
15 conforming -- whether or not they are following our
16 regulations through the year 2012. Currently, Entergy
17 has to be putting away a certain amount of money, a
18 minimum decommissioning funding amount in order to
19 decontaminate that facility to NRC standards. If and
20 when they would like -- if anyone wants (inaudible)
21 which is for them to do anything more, like bring it
22 back to a green field, this is not necessarily within
23 the realm of the NRC regulations. The regulations again
24 only require that the licensee decontaminate to NRC
25 standards for either unlimited or limited (inaudible).

1 CHAIRMAN: Okay. And I think that's
2 also been a concern here. I think when most people talk
3 about decommissioning, when it was originally done, the
4 thought was, if not green field, at least a nice place
5 and that the plant would be taken down and not just
6 mothballed and allowed (inaudible). I heard, and I'm
7 not sure from where, (inaudible), that the NRC
8 regulations have changed and that now (inaudible) what
9 they call safe store that this thing can just be left to
10 sit there or (inaudible).

11 MR. DUSANIWSKYI: Well, there are
12 options left open to a licensee as to how they will wind
13 up conforming to our regulations. From a financial
14 standpoint, the idea is that we, the NRC do not regulate
15 commerce, we regulate safety. The point is to make sure
16 that there is no radiological contamination left.

17 As far as spent fuel is concerned,
18 until that --

19 End Minute 5:00

20

21 Senate Finance Committee Disk 28/Track 7

22 Begin Minute 3:00

23 SENATOR CUMMINGS: And thank you for
24 taking the time to talk to us this afternoon.

25 MR. MCELWEE: Thank you.

1 SENATOR CUMMINGS: Okay. The next I
2 have, we're probably one minute ahead, but David is
3 here. Okay. Come on up. Introduce yourself to the
4 committee. You get the (inaudible) chair when you're on
5 the hot seat.

6 MR. MCELWEE: Much better.

7 SENATOR CUMMINGS: Yes. It's worth
8 coming up here to get the nice chair.

9 MR. MCELWEE: Madame Chair, members of
10 the Finance Committee, my name is David McElwee. I'm
11 senior liaison engineer at Vermont Yankee.

12 We understand how some folks might
13 want additional assurances at Vermont Yankee, but we
14 also understand that the NRC reactor oversight process
15 is very comprehensive and can address these concerns, if
16 it's fully understood. Entergy has decided to take no
17 position on S.169. We fully support the existing
18 regulatory framework for which Vermont Yankee falls
19 under, regulated by the Nuclear Regulatory Commission,
20 oversight by the State Department of Public Service, by
21 the Public Service Board and also by the Vermont State
22 Nuclear Advisory Panel. We hope that both the NRC and
23 the State will continue to play a strong role in
24 overseeing the operations at Vermont Yankee.

25 The Maine Yankee inspection took place

1 nearly 12 years ago. There's been a --

2 End Track #7

3 Begin Track #8

4 -- lot of changes in the NRC
5 inspection process since then.

6 Since the Maine Yankee inspection,
7 with substantial input from the Vermont Department of
8 Public Service and the Office of the Vermont State
9 Nuclear Engineer, we've had a number of large-scale, NRC
10 inspections to insure that we didn't have the same type
11 of problems that Maine Yankee did. A number of those
12 inspections occurred almost directly after the Maine
13 Yankee inspections.

14 We've also undergone a complete design
15 basis review, as well as many self-assessments and
16 industry peer reviews, and all of this work was subject
17 to the NRC oversight, as well as oversight from the
18 Vermont State Nuclear Engineer.

19 Some of that work or some of that
20 inspection included a 20 million dollar design basis
21 review validation that Vermont Yankee did itself back in
22 the mid-to-late 1990's. After that, the NRC did a
23 design basis review to look at that work to make sure
24 that it was complete and accurate.

25 We also had an NRC, what's called an

1 architect engineer inspection, which is a large team
2 inspection that looks primarily at design-related
3 activities to make sure that the way the plant was
4 designed is the way that it was built and it's the way
5 that it continues to be operated.

6 We've had what's called Appendix R
7 inspection. And Appendix R is fire protection
8 inspections. That addresses an issue that Oldus
9 (phonetic) brought up in his presentation on cable
10 separation.

11 We've also had an inspection that's
12 called a 4500 inspection. It's an NRC inspection and it
13 has to do with the effectiveness in licensee probably
14 identification and resolution, which is another area
15 Oldus touched upon.

16 SENATOR CUMMINGS: That's the
17 (inaudible).

18 MR. MCELWEE: Exactly. And that's an
19 ongoing inspection. You'll hear in just a minute where
20 we touch upon that again.

21 We also have had engineering team
22 inspections. And the ones that I'm mentioning now are
23 not the routine inspections. They're the inspections
24 that consist of generally four, five or more NRC
25 inspectors for at least a one or two-week period. We've

1 had safety system design inspections, security
2 inspections, and again, problem identification and
3 resolution inspection which was done most recently.

4 We've also had the component design
5 basis inspection. That's the inspection that we were a
6 pilot plant for in 2004 as a result of the power uprate
7 inquires that the Vermont Public Service Board had
8 during our power uprate hearings and -- and asked for
9 additional NRC inspections. Since that initial pilot
10 program where Vermont Yankee was the first plant to
11 receive that type of inspection, we had an additional
12 one in 2006 as a part of their ongoing inspection
13 program.

14 And now, as a result of or application
15 for license renewal, we've -- we've gone through a
16 significant inspection process by the NRC as a part of
17 that process and that process is still going on as we
18 speak today with -- with additional reviews and
19 inspections from the NRC in the coming weeks and months.

20 So to sum it all up, we believe the
21 existing regulatory framework is -- is one that -- that
22 works and one that we participate in with oversight from
23 the State and input from the State Department of Public
24 Service and State Nuclear Engineer.

25 SENATOR CUMMINGS: (Inaudible.)

1 End Minute 4:00

2

3 March 20, 2008

4 House Natural Resources Committee Disk #89/track 1

5 Begin Minute 00:00

6 UNIDENTIFIED MALE SPEAKER: Thank you.

7 You're here to talk to us about S.364. So this is, for

8 most of us, I mean, we just received the bill. We've

9 been --

10 SENATOR CUMMINGS: Okay. I don't even

11 have a copy, so --

12 UNIDENTIFIED FEMALE SPEAKER: Would

13 you like a copy?

14 SENATOR CUMMINGS: I'd love a copy

15 just to -- I think I can walk through it pretty quickly.

16 UNIDENTIFIED MALE SPEAKER: Why don't

17 you keep -- keep a copy. I'll give her my copy.

18 SENATOR CUMMINGS: I can -- I can go

19 without it, I think. It's actually a pretty simple

20 little bill. Okay.

21 What this bill does, in essence, is

22 the Governor has called for an independent safety

23 assessment. The Congressional Delegation has called for

24 an independent safety assessment. The legislature has

25 talked about the need to do something. What this bill

1 does is define what we mean by an assessment and we talk
2 about a reliability assessment because safety is not
3 within our purview. What -- this defines what such an
4 assessment looks like and then it tells -- describes how
5 it will be independent. And the way we -- we arrived at
6 all of this is, I don't think I have to tell you,
7 there's been a lot of public concern about the Nuclear
8 Regulatory Commission, about we all saw the pictures of
9 the cooling tower collapsing and that was shortly after
10 the last NRC safety check. But that's not really in
11 their domain, they said.

12 End Minute 1:30

13

14 Begin Minute 11:00

15 UNIDENTIFIED MALE SPEAKER: Madame
16 Chair, I'm a little confused. You started off your
17 presentation stating that we don't have oversight for
18 safety of the nuclear plant.

19 SENATOR CUMMINGS: Right.

20 UNIDENTIFIED MALE SPEAKER: And I
21 thought I just heard you say that the Department wants a
22 safety inspection and we want -- I mean, are we saying
23 we're going to forget that we do not have oversight for
24 safety, the NRC does, and we're going to take and forget
25 all that and we're going to do a safety? Or is this --

1 SENATOR CUMMINGS: No.

2 UNIDENTIFIED MALE SPEAKER: -- an
3 independent reliability inspection.

4 SENATOR CUMMINGS: This -- this bill
5 speaks exclusively of reliability and the Governor keeps
6 talking about safety. Our issue has been that we don't
7 have jurisdiction there. Our interest is in -- we're
8 going to have to vote to relicense this plant. We need
9 to know it's reliable when we do that. Now, there's
10 some interconnection between reliability and safety. If
11 it's not reliable, it may not be safe. It may be
12 reliable in emitting too many things into the air it's
13 not supposed to, but it would be unsafe. We can't do
14 that. This is reliable.

15 We know that there are severe economic
16 consequences in -- in rates if this plant does not go
17 forward, but we also know that, if we relicense it
18 without knowing --

19 End Minute 12:15

20

21 March 21, 2008

22 House Natural Resources Committee Disk 90/Track 1

23 Begin Minute 43:00

24 UNIDENTIFIED MALE SPEAKER: And
25 because this is so new, especially for some of us you

1 may not know, and then, you know, over the coming weeks,
2 we'll have a better sense and we'll, obviously, schedule
3 every week and we'll revise it accordingly. But are
4 there particular areas that you think that you feel need
5 to be addressed? And maybe if we can just show those
6 areas, I can figure out who would be best to address
7 them. But what do you see as being some of those areas?
8 Joyce?

9 MS. ERRECART: I keep thinking like a
10 lawyer and I'm so concerned about federal preemption and
11 I'd really like to hear from people about what is within
12 our perimeter because I think that helps to set the
13 tone, you know, helps to focus us on what we can work on
14 and what we can't work on.

15 ***

16 End Minute 44:07

17

18 Begin Minute 46:00

19 UNIDENTIFIED MALE SPEAKER: -- to
20 supply Vermonters before we allowed them to sell it
21 outside or back to the grid at a higher profit. So
22 that's where I'm kind of going from and I'm going to be
23 asking questions about as we go through this thing.

24 UNIDENTIFIED MALE SPEAKER: Okay.
25 Other areas?

1 UNIDENTIFIED FEMALE SPEAKER: I just
2 hate to be a dog about this, but Vermont is not in the
3 relicensing business. We're in the continued operation
4 business. And that's -- that's one of the issues we
5 have to keep very clear on. That's not our purview, is
6 relicensing. So just so that we can work toward the --
7 the language, because that will get us preempted for
8 sure, if we -- if we start doing that.

9 UNIDENTIFIED MALE SPEAKER: That's --
10 and I think that goes back to Joyce's. I think having
11 sooner rather than later. I don't know who would help
12 us understand what preemption is. I'll talk to -- I'll
13 talk to the Department or the Board and figure out who
14 would be best to come and present to us about
15 preemption. Sarah?

16 UNIDENTIFIED MALE SPEAKER: I'm sorry.

17 UNIDENTIFIED MALE SPEAKER: Preemption
18 issues. I will -- I will ask Sarah.

19 End Minute 47:00

20

21 Begin Minute 1:01:00

22 MR. MITCHELL: I just had -- I -- I
23 may think about things simplistically, but it seems to
24 me that my decision on this will be guided totally by
25 how safe is this facility. And it certainly is

1 providing electricity now. I have nothing against --
2 principal against atomic -- atomic energy. My question
3 is how safe is this particular plant. I have -- I have
4 grandchildren living within 20 miles of it.

5 UNIDENTIFIED FEMALE SPEAKER: Mark,
6 that's why we have to hear about preemption early in
7 this process because we're preempted from considering
8 safety.

9 MR. MITCHELL: Um hum.

10 UNIDENTIFIED FEMALE SPEAKER: And we
11 need to understand how carefully we need to talk on the
12 record, you know, with Sarah talking about continued
13 operation versus relicensing. If we have in our record
14 a lot of stuff that we're preempted from considering,
15 could have -- I can't even imagine the kind of legal
16 repercussions that could happen because NRC -- you know,
17 if we do things that we are preempted from doing, I
18 don't even know what NRC could do, but it's not what we
19 want. So we all need to be careful about --

20 UNIDENTIFIED FEMALE SPEAKER: Yes. We
21 do.

22 UNIDENTIFIED FEMALE SPEAKER: About
23 our language here.

24 UNIDENTIFIED FEMALE SPEAKER: Yes. We
25 do.

1 UNIDENTIFIED FEMALE SPEAKER: Because
2 there -- and about what we're looking at. Because
3 things that the federal government tells us we can't act
4 on, then we can't act on and people need to understand
5 what those things are and are not. So --

6 UNIDENTIFIED FEMALE SPEAKER: And
7 that's why I wanted that, you know, laying out of
8 exactly where we come in, what we're considering, what
9 information.

10 UNIDENTIFIED FEMALE SPEAKER: Um hum.
11 Betty?

12 UNIDENTIFIED FEMALE SPEAKER: I would
13 like to see the list of who spoke at -- at the Senate
14 Finance and not only the name, but who they represented,
15 like the Department of Public Service or -- or --

16 UNIDENTIFIED FEMALE SPEAKER: You want
17 a witness list, then, from --

18 UNIDENTIFIED FEMALE SPEAKER: I
19 just --

20 UNIDENTIFIED FEMALE SPEAKER: --
21 Senate Finance?

22 UNIDENTIFIED FEMALE SPEAKER: Yes.

23 UNIDENTIFIED FEMALE SPEAKER: Okay.

24 And -- and then --

25 UNIDENTIFIED FEMALE SPEAKER: We have

1 that already.

2 UNIDENTIFIED FEMALE SPEAKER: And if
3 it's possible that they could talk on, you know, they
4 talk on this repair or they talk on the modification or
5 they talk on the electrical system or the -- you know, I
6 don't know, whether they had people in to talk on
7 different systems and why those systems are all in here.

8 UNIDENTIFIED FEMALE SPEAKER: Um hum.

9 UNIDENTIFIED FEMALE SPEAKER: I read
10 this -- I read this twice now just while I was on the
11 House floor, trying to -- but to me, this -- this looks
12 like pretty good stuff and it covers -- and I would feel
13 safe knowing what the answers were. So if they said
14 it's rotten, I would feel comfortable with that. If
15 they said it's absolutely excellent, I'd feel safe with
16 that with this report.

17 UNIDENTIFIED FEMALE SPEAKER: Okay.
18 Safety -- safe within the realms of reliable electricity
19 for the State of Vermont because we're preempted from
20 safety. But we can consider whether or electric supply
21 is reliable. So, you know, Rachel was next.

22 UNIDENTIFIED FEMALE SPEAKER: What do
23 you mean we're preempted from safety?

24 UNIDENTIFIED FEMALE SPEAKER: We are.

25 UNIDENTIFIED MALE SPEAKER: By law.

1 UNIDENTIFIED FEMALE SPEAKER: NRC.

2 UNIDENTIFIED MALE SPEAKER: By law.

3 UNIDENTIFIED FEMALE SPEAKER: Federal
4 law, we are not allowed -- that is not our purview.
5 Safety is not the State's purview. It's the federal
6 government's.

7 UNIDENTIFIED FEMALE SPEAKER: Nuclear
8 -- safety of a nuclear power plant, we are not allowed
9 to get involved. The federal government has -- has
10 complete authority over the safety --

11 UNIDENTIFIED FEMALE SPEAKER: That's
12 right.

13 UNIDENTIFIED FEMALE SPEAKER: -- of a
14 nuclear power plant. And so that's why I want somebody
15 in here early next week to explain that to us.

16 UNIDENTIFIED FEMALE SPEAKER: But that
17 -- we can vote to keep or not keep the plant based on --
18 on whether we feel --

19 UNIDENTIFIED FEMALE SPEAKER: Not on
20 safety. Reliability. Reliability.

21 UNIDENTIFIED FEMALE SPEAKER: Yes.

22 UNIDENTIFIED FEMALE SPEAKER: Public
23 health. A whole bunch of stuff that --

24 UNIDENTIFIED FEMALE SPEAKER: We'll
25 have that explained.

1 UNIDENTIFIED FEMALE SPEAKER: -- but
2 not safety.

3 UNIDENTIFIED FEMALE SPEAKER: NRC will
4 be in Thursday at two.

5 UNIDENTIFIED FEMALE SPEAKER: Excuse
6 me?

7 UNIDENTIFIED FEMALE SPEAKER: NRC rep
8 -- an NRC rep will be in Thursday at two.

9 UNIDENTIFIED FEMALE SPEAKER: Oh,
10 good. Okay. Because that follows up -- I really want
11 to hear what they're doing right now. While -- while
12 it's not my authority to say whether or not what their
13 doing is right or wrong, I want to know what they're
14 doing. Rachel?

15 UNIDENTIFIED FEMALE SPEAKER: I'm
16 really with Margaret in just needing a 101. What's the
17 process? What do we have authority oversight? And what
18 does general welfare mean? What does continued
19 operation mean versus relicensing? Those very basics I
20 think are going to be valuable. And once that's figured
21 out and figuring out what our purview is and where --
22 what that covers, obviously, not safety, I -- I think it
23 would be valuable to have a neutral expert, you know,
24 not government, not industry, maybe even someone from
25 out-of-state on whatever the area that we are to cover.

1 Someone who's not --

2 End Minute 1:05:51

3

4 March 25, 2008

5 House Natural Resources Committee Disk #92/Track 1

6 Begin Minute 21:50

7 MR. RUSSELL: It's trying to --
8 whether it's high/low, whatever.

9 UNIDENTIFIED FEMALE SPEAKER: So is
10 that putting us on shaky -- shaky preemptive territory
11 because risk, in my mind, is often associated with
12 safety and much of safety is preempted from our
13 consideration. So I think that's something we need to
14 think about.

15 MR. RUSSELL: I think that, if we were
16 to conclude that this was a safety evaluation and we
17 were going to conclude whether it's safe or not, that
18 would be something that is within the jurisdiction of
19 the NRC. But we can look at systems in emergency
20 systems and make an evaluation of whether they are
21 reliable and whether they're functional and will be over
22 the next period of years, even if those might have some
23 connection to safety. They have also connections to
24 financial and -- and system reliability. And so I -- I
25 think that the fact that, okay, we might be looking at

1 some safety systems, doesn't bring in the preemption of
2 the NRC saying, "You can't look at that." You can look
3 at it and assess it with respect to the -- the cost and
4 the future reliability of the system.

5 UNIDENTIFIED FEMALE SPEAKER: I mean,
6 I've got that flagged because I would be inclined that
7 that would have to be carefully articulated because, you
8 know, I think we're in a mess if we get -- if we do
9 something that NRC say is preempted. So I want to work
10 really hard to make sure that whatever we do is not
11 preempted.

12 MR. RUSSELL: Well, first of all, the
13 NRC, as we'll get to that, is invited to participate and
14 be part of the team that does the evaluation.

15 UNIDENTIFIED FEMALE SPEAKER: They
16 don't want to participate. They want to be in charge.

17 MR. RUSSELL: Then I -- all right.
18 Then they can do it this way. But the -- the question
19 is that, if they don't want to participate, I -- I find
20 it odd that they could be then asserting a preemption
21 saying that the legislature itself or the State can't
22 develop its own assessment.

23 UNIDENTIFIED FEMALE SPEAKER: Well, I
24 mean, with regard to safety. Safety in terms of nuclear
25 safety, yes, they preempt us. So I just want to be

1 really careful about that.

2 MR. RUSSELL: I agree. But it doesn't
3 mean we can't look at emergency and safety issues. We
4 can look at them and make a determination that the plant
5 is or is not reliable to run for another 20 years
6 because of the condition of these systems. We wouldn't
7 be declaring that there -- that there's a safety issue
8 which is, therefore, meaning we're turning -- we're --
9 we're not going to continue with the operation of the
10 plant. But all of these are going to be entwined.

11 UNIDENTIFIED FEMALE SPEAKER: I mean,
12 this just sounds a little different than what I
13 understood two and three years ago because I just
14 remember Sarah Hoffman saying, you know, safety is
15 preempted. I mean, certainly OSHA is not preempted.
16 But, you know, in terms of leaving ladders where people
17 could fall over and stuff.

18 MR. RUSSELL: Right. Right.

19 UNIDENTIFIED FEMALE SPEAKER: But she
20 -- she just cautioned us heavily on anything that
21 involved safety.

22 MR. RUSSELL: Yes. I -- I understand.
23 But, still, I think that you can do an assessment of the
24 various systems with respect to reliability and some of
25 those systems are going to have an impact on safety.

1 Just because they have -- just because their emergency
2 cooling system, for example, doesn't mean that that is a
3 very -- that's the primary safety feature. It doesn't
4 mean that you can't assess it for its reliability and
5 structural soundness and all that sort of thing for the
6 -- for the future. It -- it doesn't -- it doesn't
7 preempt that. It preempts us from coming to the
8 conclusion that the plant should be shut down because of
9 safety issues.

10 End Minute 25:42

11

12 Begin Minute 45:00

13 UNIDENTIFIED MALE SPEAKER: And the
14 Senate now is asking for new information, additional
15 information that I would hope could be had by next year
16 so we can stay in the same timeline. Now, whether
17 that's still critical, I don't know. We will hear from,
18 you know, the entities who feel that -- or -- or Entergy
19 being one of them, who have positions about the timeline
20 and we'll have a better sense of that once we hear from
21 them.

22 So keep in mind we are just at, you
23 know, ground -- level -- ground level here in terms of
24 understanding the bill and what we've done in the past
25 and the ramifications of what's presented by the Senate

1 in anything we do. So we have a ways to go yet, so
2 these are all good questions. You'll remember them
3 because we'll have all the folks we need to have help us
4 understand all that before this committee over the next
5 few weeks. Yes.

6 ***

7 End Minute 48:11

8

9 March 27, 2008

10 House Natural Resources Committee Disk #96/Track 1

11 ***

12 Begin Minute 41:30

13 MR. THAYER: No, not a physical
14 inspection. And --

15 UNIDENTIFIED FEMALE SPEAKER: They did
16 all this by document.

17 MR. THAYER: But they would ask, "We
18 want to see the inspection results from the last
19 outage," when people actually put their hands on those
20 materials and did the physical inspections. "We want to
21 see all those results," for example. And so they would
22 -- they ask for, "You bring me the information and show
23 me."

24 UNIDENTIFIED FEMALE SPEAKER: So, did
25 they also do that with the towers that fell? Or what --

1 what part of the plant were they doing when they -- did
2 they do other sections other than the plant itself?

3 Like the towers or --

4 MR. THAYER: The --

5 UNIDENTIFIED FEMALE SPEAKER: -- water
6 towers or whatever.

7 MR. THAYER: Their focus, as I said in
8 the beginning, the Nuclear Regulatory Commission's focus
9 is primarily on nuclear safety. So it would be their
10 first -- obviously, first focus is on the nuclear
11 reactor, systems that support the nuclear reactor, and
12 other systems that interact with those systems that
13 could -- could affect how the plant operates from a
14 nuclear safety standpoint. Now, as it turns out, the
15 cooling towers are not an important system to nuclear
16 safety, so they didn't get an exhaustive review by this
17 particular body.

18 End Minute 42:38

19 ***

20

21 April 15, 2008

22 House Natural Resources Committee Disk #119/Track #1

23 Begin Minute 27:30

24 UNIDENTIFIED FEMALE SPEAKER: Why we
25 did it? Why we did it?

1 UNIDENTIFIED MALE SPEAKER: To be
2 clear.

3 UNIDENTIFIED FEMALE SPEAKER: Because
4 Act -- what 160 did was it added education for the
5 legislature in every other area. What?

6 UNIDENTIFIED MALE SPEAKER: That did
7 that, too. It combined -- it combined -- we had --
8 there was the requirement that the legislature would
9 have to vote on the storage of waste and -- and so there
10 already was a statute on the storage of waste and then
11 we were adding the continued operation, so we combined
12 that in one vote.

13 UNIDENTIFIED FEMALE SPEAKER: Among
14 other things.

15 UNIDENTIFIED MALE SPEAKER: Among
16 other things.

17 UNIDENTIFIED MALE SPEAKER: I
18 remember. I also remember being chided on the floor by
19 one of the -- one of the members of our committee
20 because (inaudible) dry cask storage bill, we did not
21 put in there precisely that the legislature must vote
22 (inaudible). Even though we had in there that the plant
23 could not go forward without the legislature weighing in
24 on dry cask.

25 UNIDENTIFIED FEMALE SPEAKER: Oh,

1 that's right. I remember that.

2 UNIDENTIFIED MALE SPEAKER: Because we
3 didn't say emphatically that (inaudible) continue
4 operation, you know, we got chewed out on the floor.
5 (Inaudible) Act 160 where we implicitly said the
6 legislature (inaudible) vote.

7 UNIDENTIFIED MALE SPEAKER: Well, no.

8 UNIDENTIFIED MALE SPEAKER: Yeah.

9 UNIDENTIFIED MALE SPEAKER: There is
10 nothing in statute that requires a vote.

11 UNIDENTIFIED MALE SPEAKER: I don't
12 agree with that.

13 UNIDENTIFIED MALE SPEAKER: I'll read
14 it to you. I've got it right here. S.124. It says --
15 it says that in order for permission to be given -- in
16 order for that plant to continue to operate, it must
17 have legislative approval. If the legislature does not
18 vote, the -- doesn't even take a vote on it,
19 (inaudible).

20 UNIDENTIFIED FEMALE SPEAKER: It
21 requires a vote.

22 UNIDENTIFIED MALE SPEAKER: Oh, yeah.
23 That's not what I thought you said.

24 UNIDENTIFIED MALE SPEAKER: To go
25 forward.

1 UNIDENTIFIED FEMALE SPEAKER: Yeah, I
2 don't think that's what he said.

3 UNIDENTIFIED MALE SPEAKER: Well, the
4 State knows what it said. If the legislature required a
5 vote. The legislature does not require a vote.

6 UNIDENTIFIED FEMALE SPEAKER: That is
7 correct.

8 UNIDENTIFIED FEMALE SPEAKER: Well,
9 they can be silent, but an action can still occur.
10 That's what you --

11 UNIDENTIFIED MALE SPEAKER: It will
12 occur. An action will occur. That's very different
13 than saying the legislature will either vote thumbs up
14 or thumbs down. The legislature has to vote thumbs up
15 before the plant (inaudible) operation.

16 UNIDENTIFIED MALE SPEAKER: Okay.
17 Thank you.

18 UNIDENTIFIED MALE SPEAKER: Good
19 morning. Kurt Smith, Public Service Department. I have
20 not seen a copy of the latest version, so I can only
21 comment based on what I've heard.

22 We do have a copy of the response to
23 Governor Douglas from the NRC about the inspection and I
24 -- that's what I went up to the Chairman and said this,
25 at least -- I think if people have a chance, if I could

1 make a copy for folks and people have a chance to look
2 at this, perhaps over lunchtime, and then that might
3 help clarify where you want to go with this bill instead
4 of guessing where the NRC goes. I wouldn't say it was
5 definitive, but it shows you how they are willing to do
6 the assessment working with us. And that, I --
7 hopefully, can give -- maybe help you narrow your
8 thoughts on how you want to draft the bill after that.
9 So that's why this might be helpful for you folks to
10 have.

11 This is a -- this is a -- this is a
12 copy of a bill -- I'm sorry a letter from NRC back to
13 Governor Douglas.

14 UNIDENTIFIED FEMALE SPEAKER: We
15 didn't have that last week, right?

16 UNIDENTIFIED MALE SPEAKER: No. No.
17 We just got it. No, we --

18 UNIDENTIFIED MALE SPEAKER: What's the
19 diagnosis and treatment?

20 UNIDENTIFIED MALE SPEAKER: Well, the
21 11th. But there's -- an they've given copies to -- you
22 probably -- I don't know, you haven't seen one, it
23 sounds like, even though you're copied on this. So --

24 UNIDENTIFIED FEMALE SPEAKER: I think
25 this is huge.

1 UNIDENTIFIED MALE SPEAKER: So this
2 will be, I think, helpful. Yeah, we weren't sure when
3 we were going to get this, so we just got it.

4 UNIDENTIFIED FEMALE SPEAKER: So could
5 we all have copies?

6 UNIDENTIFIED MALE SPEAKER: Yes. No.
7 That's why I'm coming to say if I could make -- if I
8 could have -- I only have one copy. If I could ask
9 Katherine to make copies and then, if you folks could
10 then kind of digest this.

11 UNIDENTIFIED FEMALE SPEAKER: Was it
12 CC'd to VSNAP?

13 UNIDENTIFIED MALE SPEAKER: No. But
14 to the leadership here.

15 UNIDENTIFIED FEMALE SPEAKER: I -- I
16 would think it would be CC'd to VSNAP also.

17 UNIDENTIFIED MALE SPEAKER: Well,
18 we'll send it to VSNAP.

19 UNIDENTIFIED FEMALE SPEAKER: Great.
20 Thank you.

21 UNIDENTIFIED MALE SPEAKER: And but I
22 don't -- I -- I haven't seen a copy of the latest draft
23 from Bill Russell, so I --

24 UNIDENTIFIED MALE SPEAKER: So why
25 don't we make sure let's get the copies of the latest

1 draft. We'll get copies, Katherine, before lunch on
2 this. Are there any -- based on -- do you want to just
3 wait, then, and (inaudible)?

4 UNIDENTIFIED MALE SPEAKER: I think
5 this might be helpful in terms of, you know, maybe
6 distilling some of the conversation. I mean, I think
7 some of the things you've already talked about are
8 right. I mean, we're -- we think having the NRC as part
9 of the inspection gets us where we need to be. But if
10 you don't want them or, for whatever reason, there's a
11 divergence of where the NRC is willing to go and what
12 the legislature wants, you would have to get permission
13 from Entergy to -- to bring in a team to look through --
14 do some sort of assessment.

15 UNIDENTIFIED MALE SPEAKER: I just
16 wanted to clarify something. If -- if the NRC only
17 evaluates for safety, the legislature is interested in
18 reliability, as well, which will differ from safety,
19 then it appears -- then it appears to me that we will
20 have to have two separate --

21 UNIDENTIFIED MALE SPEAKER: I think
22 this will help. Let me read a quick sentence.
23 "Therefore, the NRC safety inspections of Vermont Yankee
24 may aid -- may aid the State of Vermont in assessing the
25 reliability of the facility in generating electricity."

1 End Minute 33:12

2

3 Begin Minute 59:30

4 ***

5 UNIDENTIFIED MALE SPEAKER: Joyce?

6 MS. ERRECART: I think this NRC letter
7 has made our situation clearer. And it's not a matter
8 of -- of trust with NRC, it's a matter of they say
9 clearly in that letter they focus only on safety. We
10 are focusing on reliability. You know, they don't even
11 have statutory authority to be concerned about the whole
12 range of things that we're concerned about. And so I'm
13 -- it's verified what -- what I suspected, that what NRC
14 is going to do is not going to answer all the questions
15 that we have. And I think -- I hope that we have
16 consensus that we have the same goals. That we want the
17 best possible analysis done by roughly January of next
18 month -- next year, so that the legislature has what is
19 available, reasonably available, to make a decision next
20 year. And so I think we just have to -- I'm very
21 concerned about the practical difficulty because I think
22 whatever the NRC does is going to take a significant
23 amount of Entergy resources in terms of, you know, staff
24 time to facilitate what it is that they need.

25 UNIDENTIFIED FEMALE SPEAKER: Um hum.

1 End Minute 1:01:37

2

3 April 16, 2008

4 House Natural Resources Committee Disk #121/Track 1

5 Begin Minute 12:00

6 UNIDENTIFIED MALE SPEAKER: -- update
7 any specific structure.

8 UNIDENTIFIED MALE SPEAKER: Thank you.

9 UNIDENTIFIED FEMALE SPEAKER: Thanks.

10 UNIDENTIFIED MALE SPEAKER: Joyce.

11 MS. ERRECART: Does vertical slice
12 audit or vertical audit, is that something that's
13 defined by the NRC or is that a concept that's clearly
14 understood by the NRC?

15 DAVID LEW: I've heard the term
16 vertical slice as taking a system and going from top to
17 bottom of the system, the procedures, every component
18 within the system, how -- how the system is operated,
19 and the -- the vertical slice is an approach that can be
20 used to an inspection. But I'll give you a little
21 history. We talked about the reactor oversight process
22 as evolving over the years and -- and we -- we hope that
23 we are a learning organization and we try and learn from
24 the experience of inspection. We have over the years,
25 over the years of inspection, we've improved our

1 procedures, the details of our inspection procedures and
2 our approach. We used to do what maybe considered
3 vertical slices of inspections back 20 years ago. We
4 did what we used to call SWOPI, Service Water
5 Operational Inspections -- Service Water Operational
6 Inspections, where we looked at service water system.
7 We had another inspection that we called EDSFI's,
8 Electrical Distribution Safety Function Inspections.
9 And we had other types of inspections that we called
10 SSDI, Safety System Design Inspections. Those tend to
11 be more of a vertical slice. Look at the particular
12 components. What we found, as we take all this
13 information, is we think that there was a better
14 approach and that evolved into our component design
15 basis inspection. And rather than look at a system and
16 -- and looking at a system, you may have certain
17 components that have very little risk contribution, you
18 know, and -- and you may be looking at something which
19 doesn't add a lot in terms of margin. What we do is we
20 look at what the function, the functions that we have to
21 carry out to insure that the plant is operating safely.
22 And we look at from -- from that point of view, we look
23 at -- incorporate our risk analysis, which we did not
24 have those two as well developed 20 years ago. We have
25 that developed now and we know what areas of highest

1 risk contributions. We look at those things with the
2 smallest margins. And these are actually various
3 (inaudible) inspections and they identify areas where
4 there can be improvements to increase the margins.

5 That focuses on the most risk-
6 significant safety-related issues of the smallest
7 margins and we believe that that's a better way of
8 approaching inspections and it's evolved over the years.

9 So we've had experience with, I think,
10 what's termed as vertical slices. We've evolved to
11 areas that I think are more robust in giving us a level
12 of confidence that the plants are operating well.

13 UNIDENTIFIED FEMALE SPEAKER: Is -- is
14 vertical audit or vertical slice audit a fairly clear
15 concept in the nuclear industry?

16 DAVID LEW: I don't know that I -- I
17 would not -- I have a vision of what may be a vertical
18 slice. I am not sure if there's a definition for a
19 vertical slice. You know, my view of, when I hear
20 vertical slice, and I am not sure if that's the
21 terminology that everybody will share is, you're looking
22 at the system from top to bottom. You'd be looking at a
23 service water system from top to bottom. Whereas what
24 we try to do is we look at the service water system has
25 a function that supports a diesel generator system.

1 There's operator actions that are needed. You look at
2 all those aspects to make sure that your function -- the
3 safety function is being maintained.

4 UNIDENTIFIED MALE SPEAKER:
5 (Inaudible.)

6 UNIDENTIFIED FEMALE SPEAKER: So
7 you've evolved to the component design basis inspection
8 when evaluating safety. Can you imagine a situation in
9 which a vertical slice, the way you define it, would be
10 more appropriate to evaluating reliability?

11 DAVID LEW: I -- I guess I don't
12 really have a view on that.

13 UNIDENTIFIED FEMALE SPEAKER: Um hum.

14 DAVID LEW: One of the challenges that
15 -- you know, our focus is primarily on safety and
16 security and we -- we look at events and other areas
17 primarily on that basis. There is also the term
18 reliability and we -- we -- and when you talk to me, I
19 think of reliability as reliability of -- of safety
20 systems. There's also the term of reliability in terms
21 of power generation and that's not within our purview.
22 That said, there is overlap between the two. There is
23 overlap in that, you know, you may have a system which
24 impacts both.

25 What we look at is we look at through

1 a lens, though, of safety. So while there may be a -- a
2 plant shutdown, you know, it may be more relative to
3 reliability of electric generation, but, you know, for
4 us, it means less. If it's not complicated, if the
5 safety systems work, the reactor was never -- was never
6 in jeopardy, it has low risk for us. And -- and you can
7 see that in how we grade our -- our thresholds. Is you
8 have to be more than three in seven thousand hours
9 before we go to the next threshold.

10 On the flipside, there may be things
11 that we are very concerned with. If a diesel generator
12 is out of service for an extended period of time, that
13 may cause us to jump a number of colors. But from an
14 electrical generation point of view, that probably has
15 very little meaning.

16 So there -- there is overlap, but we
17 view things through a -- a safety, security prism.

18 One thing that you may get insights,
19 because there's overlap, is, you know, how people -- how
20 procedures are developed and implemented. That may have
21 commonality in both.

22 So I -- I don't think I have a view on
23 how best to look at the aspect of the electrical
24 generation reliability, nor should I. It's not really
25 within our purview.

1 UNIDENTIFIED MALE SPEAKER: And maybe
2 that fits well with my question. And that is, as you
3 pointed out earlier, we had a cooling tower collapse and
4 that's heightened concerns by many in Vermont about the
5 reliability and the safety of the plant. And then we
6 have your testimony today which talks about the 20 --
7 over -- you know, the thousand -- seven thousand plus
8 hours that you put in and NRC puts in to evaluate the
9 safety of this plant. So what do we tell to the public,
10 to Vermonsters, about that disconnect? How do we explain
11 that? And, specifically, NRC's role in that, and -- and
12 Entergy's role? Who is responsible for what? Is that
13 an understandable question?

14 DAVID LEW: Yes. That's a very tough
15 question.

16 UNIDENTIFIED FEMALE SPEAKER: I also
17 think that that's one of the questions on the 12 that we
18 offered.

19 DAVID LEW: Right. And -- and we can
20 try and answer those questions and we can skip the
21 questions that we already covered, if that's okay. I --
22 I --

23 UNIDENTIFIED MALE SPEAKER: Could we
24 just start with this question.

25 UNIDENTIFIED FEMALE SPEAKER: Yes.

1 UNIDENTIFIED MALE SPEAKER: It's a
2 good segue.

3 UNIDENTIFIED FEMALE SPEAKER: Yes. It
4 is.

5 DAVID LEW: Okay. You know, I guess
6 if I go back to what the NRC does, again.

7 UNIDENTIFIED MALE SPEAKER: Um hum.

8 DAVID LEW: You know, we just view
9 things from a security and safety point of view and --
10 and while there's overlap and we will focus on things
11 which may be from an electrical generation point of view
12 that -- that you -- you know, others may focus on that
13 we would not focus on and visa-versa. Our focus still
14 has to be on safety and security and that goes really
15 back to our -- our charter from Congress. You know, to
16 prevent that -- separate that conflict of interest. We
17 really can't have us crossing that line. That is not to
18 say that we don't look at those issues that there are
19 overlap. We do look at it. But when we step back and
20 assess the significance relative to reactor risks, it
21 tends to be low.

22 While the cooling tower 2-4 collapsed
23 last year in -- in August was a very public event. From
24 a reactor risk and what the NRC does, it's a very, very,
25 very low significant issue.

1 That said, we did take a look at those
2 activities because there is overlap and we looked at it
3 to understand what the impact is on the safety-related
4 cell. And I would say that even with the safety-related
5 cell, that the risk contribution of that safety-related
6 cell was still very low, but it is part of their
7 requirements, part of our license requirements for them.
8 We will look at the potential implications of that on
9 the cell. In fact, our reactor oversight process allows
10 us to identify those performance weaknesses, even those
11 outside the safety-related area. And we did identify a
12 finding associated with that failure back in August,
13 although it was a green finding because of the risk
14 significance.

15 I am not sure that that answers your
16 question, necessarily, but that's --

17 UNIDENTIFIED MALE SPEAKER: Well, let
18 me phrase it -- in part. Let me phrase it another way.
19 So there's been criticism. What I've heard is criticism
20 of the NRC, you know, how can we trust the NRC to do a
21 good inspection of this plant when they have an ongoing
22 inspection and -- and recently had, I guess, a more in-
23 depth inspection, and yet you can have the collapse of a
24 cooling tower? I think I know the answer, but I just
25 want you to just articulate that answer again.

1 DAVID LEW: Yes. I'll focus on the
2 inspection program. Again, it's on the high-risk areas
3 for -- for reactor safety and we were focusing most of
4 our samples in that particular area. We will spend less
5 time on areas that don't contribute to risk, but we do
6 have processes that detect and account for those
7 changes. For example, that collapse in the cooling
8 tower, that was input into one of our performance
9 indicators.

10 UNIDENTIFIED MALE SPEAKER: That was
11 what? I'm sorry?

12 DAVID LEW: That was an input into one
13 of our performance indicators.

14 UNIDENTIFIED MALE SPEAKER: Okay.

15 DAVID LEW: We not only have a
16 performance indicator that talks about unplanned
17 shutdowns, but we have a performance indicator that
18 talks about unplanned power reductions greater than I
19 think 20 percent. So we do factor that in. How -- how
20 much -- how proactive it is relative to those -- those
21 systems that are less -- lesser significant, it's less
22 so than those areas that are more significant.

23 MARJORIE MCLAUGHLIN: I think if I
24 could add on one thought also. You know, it is
25 certainly a mandate of the NRC to conduct our affairs in

1 as public a manner as possible. And -- and, you know,
2 as Dave mentioned, we -- we will have a -- a public
3 meeting, as we do every year, and we'll have I think on
4 May 12th, we'll be having our -- or mid-May we'll be
5 having our public meeting in Brattleboro to talk about
6 our assessment of Vermont Yankee's performance. And so
7 that's an opportunity that -- that we provide to the
8 public to hear what feeds into our assessment of the
9 plant safety. So, you know, it is incumbent upon us to
10 get the -- to explain to people why we think what we
11 think about the plant and we make every effort to make
12 our documentation available to people and to have --
13 provide folks the opportunity to ask us questions and
14 speak to us personally about how we've reached our
15 decisions and determinations, so --

16 UNIDENTIFIED MALE SPEAKER: Okay.
17 And we -- we, obviously, are very concerned about the
18 reliability of the plant. And specifically from, you
19 know, knowing that Vermont Yankee produces a third of
20 our power at a reasonable cost, you know, it's a concern
21 for us that between now and 2012 it remain reliable.
22 And if it does get its extension, that it remain
23 reliable and we're looking at it from a cost
24 perspective. With that said, how do -- it sounds like
25 for those systems that aren't critical risk systems,

1 like the cooling tower, what kind of assurances, then,
2 do we have that those systems that aren't within that
3 high risk are adequately being maintained to insure the
4 reliability of the plant?

5 DAVID LEW: And -- and I think from --
6 from the NRC's oversight process, as I mentioned, we do
7 take a look at those issues, those events. We do take a
8 look at those events from what they mean relative to the
9 licensee's inspection processes, procedures, maintenance
10 practices. And we do engage the licensee to insure that
11 we understand what their corrective actions moving
12 forward are. So I would say, you know, for those
13 specific events, there are actions that are in place to
14 preclude their occurrence.

15 UNIDENTIFIED MALE SPEAKER: You
16 earlier said that degradation at one plant triggers
17 inspections at others.

18 DAVID LEW: We have a process, an
19 operating experience process where we will look at
20 operating experience and we -- we -- I share a morning
21 meeting every morning where all the information comes in
22 from the plants. We have a headquarters office on the
23 line and there are actually people in our headquarters
24 office that is in the operating experience group. What
25 we do is we collect that information and we will make

1 determinations of the significance. If the -- if there
2 is a degradation that is very significant, the response
3 is going to be much, much greater. If there are some
4 insights that we get from certain plants, we may share
5 it with residents. One, the lowest -- lowest activity
6 would just be to make sure that the licensees are aware
7 of it and that they can factor in. If we think that
8 they're -- it goes below a threshold and it's a judgment
9 call by the management team, we may ask the inspectors
10 to actually go and look at it directly. So it's a
11 graduated approach, but there is a process that we
12 insure that we take operating experience from one plant
13 and make sure that we learn from that and apply to other
14 plants as well.

15 UNIDENTIFIED MALE SPEAKER: So the
16 degradation of the cooling towers at the other plants
17 where it took place did not trigger the inspection at
18 Vermont Yankee. It was insignificant in your -- in your
19 view?

20 DAVID LEW: The cooling tower did not
21 -- did not initiate an inspection within the region one
22 office. There -- there are actually not very many
23 plants with that type of cooling towers; very few, in
24 fact. Most of the plants in region one either take
25 their -- they don't have -- they don't have cooling

1 towers, to begin with. They take their cooling from --
2 directly from the river or they have the large parabolic
3 type cooling towers.

4 In region one, there is only one other
5 plant that I know of that has this type of cooling tower
6 and that's at Peach Bottom, but there it's not -- it has
7 no safety function, and it has no even operational
8 function. So it's somewhat unique, this cooling tower,
9 for region one.

10 I believe there are other cooling
11 towers, not very many, outside of region one, but I
12 really can't talk to those specifics because I just am
13 not aware.

14 UNIDENTIFIED MALE SPEAKER: Joe.

15 UNIDENTIFIED MALE SPEAKER: I
16 apologize for not being here earlier. I was in another
17 committee and if you've answered this, then -- then I'll
18 get it from committee members. But I'm looking for
19 indicators that it's going to give me a crossover from
20 what you do in the safety and security to what we're
21 looking for in the reliability that we've got to answer
22 to the people of Vermont within the next two years. But
23 if you were to go in, in the area of safety and
24 security, and you were to do a finding that showed me or
25 told me that you have concerns about any nuclear plant

1 following either nuclear regulations or their standard
2 operating procedures, would that be written in a way
3 that I could look at it and say, if there's problems
4 there found by the NRC, then I need to look at how those
5 procedures are in the other areas that you don't
6 consider significant? And if you follow what I'm
7 talking?

8 DAVID LEW: Yes.

9 UNIDENTIFIED MALE SPEAKER: And -- and
10 let's say, you know, standard operating procedures or
11 whether its maintenance or scheduled maintenance or
12 training or anything like that. Would it be clear to me
13 that I should look deeper in those things that you're
14 not looking at to -- to assess reliability?

15 DAVID LEW: I think it would vary,
16 depending on the issue as being documented. There may
17 be issues which it may be clear. There are issues that
18 are not so clear.

19 Now, there's -- you know, we talk
20 about the Vermont Yankee trip that occurred about a year
21 ago due to -- due to poor lubricating processes for
22 their valve. You can draw from that some issues with
23 the maintenance -- maintenance practices there and we
24 identified that as a finding. We documented the issues
25 that we believe that was deficient. So it documents

1 where the area of concern is from a -- how much do you
2 extrapolate from that. That's one of the areas that we
3 do, do look at is, okay, where -- where -- what other
4 areas have this poor practice, not been -- have been
5 exercised. And that's part of what we look at as the
6 (inaudible) commission. So you -- you will -- you will
7 see a sense of, well, there's an overlap there relative
8 to reliability because the plant tripped, and but
9 there's also a characterization of what the performance
10 issue is and also the extent to which we may have looked
11 at other areas. Does that --

12 UNIDENTIFIED MALE SPEAKER: Yes. I
13 think I -- so what I think I'm hearing is I could look
14 at what you were looking at in the safety and security
15 area and I could draw some conclusions and it would be
16 up to my interpretation whether or not --

17 DAVID LEW: Yes.

18 UNIDENTIFIED MALE SPEAKER: -- if I go
19 in the other areas, whether it's serious or not. I
20 mean, the example you gave, if I was going in there, I
21 would obviously want to look at other maintenance
22 procedures in other areas that affect reliability.

23 DAVID LEW: Electric generation
24 reliability.

25 UNIDENTIFIED MALE SPEAKER: Yes.

1 DAVID LEW: And we -- you know, we do
2 monitor inputs on, you know, relative to -- we talked
3 about plant trips and we talked about unplanned power
4 reductions. There's -- there's a nexus there between
5 electric generation reliability, but we look at it from
6 a safety point of view, as well, because that's what we
7 call -- that's one of the cornerstones that we talked
8 about, the seven cornerstones in initiating events.
9 But, you know, again, it was through a lens of -- the
10 risk significance is lower for us, but there is that
11 overlap and we do want to make sure that, as these
12 events accumulate, they can, actually, cross over into
13 thresholds that we would respond to more vigorously.

14 End Minute 32:00

15

16 Begin Minute 54:00

17 UNIDENTIFIED FEMALE SPEAKER: I don't
18 see that, really, that -- that is the same as changing
19 your process because we keep seeing this silo of safety
20 and security as being the bailiwick of the NRC, which is
21 absolutely understandable, and there's reason, perhaps,
22 that there's no precedent for having another team that's
23 looking at the other silo of reliability because,
24 frankly, there may not be a percent for a state relying
25 on one nuclear power plant for a third of its power,

1 which is a huge percentage. It is essentially to the
2 State in a situation like this to make sure that, you
3 know, for the people relying on this electricity, that
4 they can get entering into another long-term contract,
5 that this will remain in place.

6 Leaving aside the silo of safety and
7 security, we have an obligation to look at reliability
8 as well. Therefore, whether or not the NRC has a
9 precedent or would allow it, whether Congress by
10 extension would allow it, I really see as a different
11 situation. And I know you can't comment on the bill,
12 but I -- I just want to clarify that in general. That
13 we are really bound to look at reliability as well.

14 End Minute 55:00

15

16 Begin Minute 1:02:30

17 UNIDENTIFIED FEMALE SPEAKER: So we
18 interrupted you as you were answering the question. You
19 were talking about --

20 DAVID LEW: Oh, yeah.

21 UNIDENTIFIED FEMALE SPEAKER: --
22 interface with (inaudible) inspections.

23 DAVID LEW: Well, interface with --
24 yeah -- from -- from an oversight process, we do take a
25 look at the input reports, again, to want to make sure

1 that we are aware of any safety issues. That we
2 understand whether or not -- you know, we do an
3 assessment and our assessment is safety and security
4 focus, input assessment may be more toward the
5 excellence, but we want to make sure that there's not
6 any -- if there is a delta, we want to understand it.
7 Are we missing anything? You know, is there some other
8 areas that we need to reflect on our own processes. So
9 we do have that interface and that dynamic that occurs.

10 UNIDENTIFIED FEMALE SPEAKER: And if
11 that delta happens to be in an area that's leaning
12 towards reliability versus safety, but there's that
13 obvious interface between the two, do you comment on
14 that, if it's something that's totally --

15 DAVID LEW: We -- we don't comment on
16 that.

17 UNIDENTIFIED FEMALE SPEAKER: Thank
18 you.

19 ***

20 End Minute 1:04:02

21

22 April 16, 2008

23 House Natural Resources Committee Disk #122/Track 1

24 Begin Minute 11:00

25 DAVID LEW: I think we talked a little

1 bit about what our role is and how there may be some
2 overlap. Is there any specifics that we want to talk
3 about again? The scram and the cooling tower and how we
4 -- we look through the lens of safety and security while
5 there's overlap with reliability for -- for electrical
6 generation.

7 UNIDENTIFIED MALE SPEAKER: Betty.

8 UNIDENTIFIED FEMALE SPEAKER: My
9 question is kind of general around those lines and,
10 again, I apologize if you've answered this in some way
11 previously. But you -- you had said when talking about
12 one of the previous questions that it's not an NRC
13 requirement. If --

14 DAVID LEW: I'm sorry --

15 UNIDENTIFIED FEMALE SPEAKER: -- and I
16 understand your purview. You have a specific purview.

17 DAVID LEW: Right.

18 UNIDENTIFIED FEMALE SPEAKER: That is
19 mandated through Congress, what you really won't do. If
20 you -- if you see that within your prescribed purview
21 now that there really -- it really made sense to expand
22 that because of changes that you're seeing in which
23 something is starting to affect the safety side of the
24 business more than initially and so on and so forth, is
25 there an easy manageable process by which NRC can

1 request a purview change permanently, you know, this is
2 our -- you know. And has that ever been done? And what
3 would happen if your purview became much closer linked
4 to reliability and would that ever be a suggestion by
5 the people on the ground, as opposed to Congress out.

6 DAVID LEW: Yes. The -- and -- and
7 we're talking about purview, I guess we -- I -- I view
8 it as there's two different goals that are separate.
9 Okay, one is safety and security and there's one which
10 is electric reliability.

11 UNIDENTIFIED FEMALE SPEAKER: Um hum.

12 DAVID LEW: Which that's clearly not
13 within our purview and I don't think we would ever
14 request to go into that because that's an issue of a
15 state's rights. I mean, you get into areas within the
16 constitutions that we don't have a right to be there.
17 End Minute 13:06

18

19 House Natural Resources Committee Disk 122/Track 2

20 Begin Minute 5:00

21 UNIDENTIFIED FEMALE SPEAKER: And that
22 in some way blends with the -- the type of inspection
23 that the NRC does that is on the safety side of the
24 business. If the State of Vermont has questions
25 specific to some areas that the NRC would not typically

1 go 100 percent on and they go 80 percent of the way and
2 we were looking for an independent team, an oversight
3 committee, a group that goes beyond the group within
4 Vermont Yankee to further inspect those specific areas,
5 how do you see Vermont Yankee working in that measure?
6 And it's kind of the same question I had asked NRC which
7 is, you know, they're going to only bring it so far, but
8 is there anything that Vermont Yankee would be opposed
9 to as far as that other group picking up that piece and
10 carrying it the last 20, you know, 20 yards so that the
11 State of Vermont feels that, with the help and
12 cooperation of NRC and Entergy, our independent group
13 can answer that final question that may not typically
14 get answered or in a typical setting?

15 JOHN DREYFUSS: I understand the
16 question. Again, I haven't seen any specifics of what
17 that would look like, so it's inappropriate for me to
18 jump in and comment on that without -- without knowing
19 the details of what that would look like. What I will
20 restate is that it is my experience that -- that 80
21 percent or that piece -- the NRC goes a very long way
22 towards looking at these reliability issues and
23 certainly those kind of key things that would drive
24 downturns in power, plant reactor trips, that would get
25 or could get a look through the process. So we don't

1 know what that process looks like yet and I think let's
2 let the Department and the NRC show us what that would
3 look like and we can comment on that.

4 UNIDENTIFIED FEMALE SPEAKER: That
5 maybe isn't my question, though. If we -- once we know
6 what that looks like and we're hoping that it will go 80
7 percent, 90 percent of the way, is there -- is there any
8 reason why Entergy wouldn't be supportive of helping us
9 go the other 10 percent? The other 20 percent?

10 JOHN DREYFUSS: Again, I would like to
11 see what the Department and the NRC can do in terms of
12 developing an inspection. It is my experience that they
13 will go a very long way in terms of addressing those
14 kind of key reliability issues that are being -- being
15 looked for. So I can't agree at this point to -- to any
16 additional inspection beyond -- beyond that. We haven't
17 seen what that would look like.

18 UNIDENTIFIED FEMALE SPEAKER: Okay.

19 Thank you.

20 End Minute 8:05

21 ***

22

S.289 (2010)

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H. 763.

An act relating to establishment of an agency of natural resources' river corridor management program.

To the Committee on Natural Resources and Energy.

Third Reading Refused**S. 289.**

Senate committee bill entitled:

An act relating to approval for continued operation of the Vermont Yankee nuclear power station.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Scott, moved to commit the bill to the Committee on Economic Development, Housing and General Affairs, which was disagreed to on a roll call, Yeas 6, Nays 24.

Senator Scott having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Brock, Flory, Mazza, Mullin, Scott, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Snelling, White.

Thereupon, pending the question, Shall the bill be read a third time?, on motion of Senator Shumlin the Senate recessed until one o'clock and forty-five minutes.

Called to Order

At two o'clock in the afternoon the Senate was called to order by the President.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Mullin, Brock, Flory and Scott move to amend the bill as follows:

First: In Sec. 1, by striking out subsections (d) through (f) and inserting in lieu thereof the following:

(d) Under current law, until the general assembly acts under 30 V.S.A. § 248(e)(2), the public service board – the expert body created by the general assembly to make evidence-based determinations on matters relating to electric power – cannot issue a final order in its pending proceedings in Docket No. 7440 on the questions of continued operation of the VYNPS and storage of spent fuel at the station beyond the currently scheduled closure date.

(e) In accordance with 30 V.S.A. § 248, in its decision in the pending proceedings, the public service board will consider the need for electric energy from the VYNPS, the consistency of the station with state energy planning, the issues of reliability and electric system stability, the economic benefit of the VYNPS and the power it generates to the state and its residents, and the other criteria required by statute.

(f) The general assembly should make its determinations regarding the continued operation of the VYNPS and storage of spent fuel at the station so that the public service board may complete its ongoing proceedings, apply its professional expertise, and issue a final order in Docket No. 7440 that is based on the evidence before it.

Second: By striking out Secs. 2 and 3 and inserting in lieu thereof new Secs. 2 and 3 to read as follows:

Sec. 2. VERMONT YANKEE; CONTINUED OPERATION; APPROVAL

(a) Provided that each of the conditions contained in subsection (b) of this section is met, the general assembly:

(1) determines that continued operation of the Vermont Yankee Nuclear Power Station (VYNPS or the station) for up to 20 years following its currently scheduled closure date of March 21, 2012, will promote the general welfare of this state; and

(2) finds that storage of spent nuclear fuel derived from the operation of the VYNPS for up to 20 years following the currently scheduled closure date will promote the general good of this state.

(b) The general assembly approves until up to March 21, 2032, the continued operation of the VYNPS and the storage of spent nuclear fuel derived from the operation of the station, provided that each of the following conditions is met:

(1) By March 1, 2011, Entergy Nuclear Vermont Yankee, LLC (ENVY), the station's owner, executes a power purchase agreement (PPA) with Vermont's two largest investor-owned retail electricity providers that, starting in 2012, commits at least 115 MW of the output of the VYNPS to such

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providers for the period of continued operation of the station approved by the public service board at a price not to exceed 125 percent of the price currently paid by such providers under the existing PPA approved by the board in Docket No. 6545.

(2) By June 30, 2010, ENVY shall obtain approval from the Vermont public service board of an ongoing reliability and maintenance plan for the VYNPS that meets at least each of the following:

(A) The plan provides for a full inspection within six months of the plan's approval of all aboveground and underground structures, components, facilities and pipes, and periodic inspection of the same at a frequency deemed necessary by the Vermont department of health. For the purpose of this section, the term "underground" includes all structures, components, facilities, and pipes that are below grade whether they are in contact with earth or in a concrete vessel.

(B) The plan provides for prompt repair or replacement of all structures, components, facilities and pipes that are identified through an inspection under subdivision (2)(A) of this subsection as requiring repair or replacement.

(C) The plan ensures compliance with all recommendations of the Reliability Assessment of the Vermont Yankee Nuclear Facility (Nuclear Safety Associates, Dec. 22, 2008) and the Report of the Public Oversight Panel on the Comprehensive Reliability Assessment of the Vermont Yankee Nuclear Power Plant (March 17, 2009).

(3) ENVY shall implement the plan required by subdivision (2) of this subsection in accordance with the terms of the public service board's approval.

(4) ENVY shall be liable to pay, within 30 days of receipt of an invoice, the reasonable costs of the department of health, the department of public service, and the agency of natural resources in inspecting and monitoring the VYNPS. This liability shall continue after the VYNPS ceases operation with respect to inspection and monitoring of the condition of and postclosure activities at the VYNPS site and environs. In the event that the reasonableness of such costs is disputed, the public service board shall have jurisdiction to resolve such dispute.

(5)(A) By March 1, 2011:

(i) ENVY shall provide the public service board with the written agreement of Entergy Corporation of New Orleans, Louisiana (Entergy Corp.), the ultimate parent of ENVY, to guarantee the full funding of all postclosure activities necessary at the VYNPS, including decommissioning of the station,

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on-site management of spent fuel, and return of the site to a “greenfield” condition as defined by the public service board in its order of June 13, 2002, Docket No. 6545; and

(ii) ENVY shall obtain, after notice and opportunity for hearing, the board’s approval of the form and terms of such guarantee.

(B) A refusal of Entergy Corp. to provide the guarantee required by this subdivision (5) shall be considered noncompliance by ENVY with this subdivision.

(6) Notwithstanding 30 V.S.A. § 107 or any other provision of law, the following is prohibited: a transfer of a controlling interest in ENVY or Entergy Nuclear Operations, Inc. (ENO), the operator of the station, unless each of the following applies:

(A) Entergy Corp. remains liable with respect to the guarantee required by subdivision (5) of this subsection.

(B) The new owner of ENVY or ENO or both makes the same guarantee required by subdivision (5) of this subsection and is independently liable with respect to that guarantee.

(7) From March 21, 2012, until the end of the period of continued operation of the VYNPS approved by the public service board, ENVY shall continue to fund the clean energy development fund established under 10 V.S.A. § 6523 in an annual amount determined acceptable by the board, to be no less than the amount paid by ENVY under memoranda of understanding with respect to the VYNPS approved by the board prior to January 1, 2010. ENVY shall obtain the public service board’s approval of such annual amount on or before March 1, 2011.

(8) The VYNPS shall obtain from the public service board and any other agencies such certificates, permits, and approvals related to continued operation of the VYNPS and storage of spent fuel at the VYNPS as are required by law.

(c) This act does not require the public service board to approve the continued operation of the VYNPS and the storage of spent nuclear fuel derived from the continued operation of the VYNPS beyond March 21, 2012. However, if the board determines to issue such approval, the board shall include the conditions of subdivisions (b)(1) through (7) of this section in any such approval. The board may include such other conditions as it reasonably deems appropriate, including conditions that are more stringent than those required by subsection (b) of this section.

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Sec. 3. EFFECTIVE DATE; APPLICATION TO PENDING PROCEEDINGS

(a) This act shall take effect on passage.

(b) The public service board may complete its pending proceedings in Docket No. 7440 and its consideration of all issues under the relevant statutes, including the need for electric energy from the VYNPS, the consistency of the station with state energy planning, reliability and electric system stability, and the economic benefit of the VYNPS and the power it generates to the state and its residents. The board may issue a final order in Docket No. 7440.

(c) Notwithstanding 1 V.S.A. §§ 213 and 214, this act shall apply to proceedings pending before the public service board as of this act's effective date.

Which was disagreed to on a roll call, Yeas 5, Nays 25.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Brock, Flory, Mullin, Scott, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Snelling, White.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Flory, Brock, Mullin and Scott move to amend the bill as follows:

First: In Sec. 1, by striking out subsections (d) through (f) and inserting in lieu thereof the following:

(d) Whether or not the VYNPS continues operation after March 21, 2012, the station will not operate indefinitely.

(e) Whenever the VYNPS ceases operation, its contribution to Vermont's energy supply – currently about one-third of the electricity consumed in the state – will need to be replaced.

(f) Replacement of VYNPS power is likely to increase reliance on the spot market for electric energy, therefore exposing the state to sudden and unanticipated price fluctuations that are beyond Vermonters' control, the threat of foreign imposed oil embargoes, and a potential increase in Vermont's

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Committee Hearings

Senate Committee on Finance

- **Feb.** 17, 18

Senate Floor

- **Feb.** 19: Introduced by Senate Committee on Finance
- **Feb.** 24: Sen. Cummings reports for Senate Committee on Finance; Sen. Lyons reports for Committee on Natural Resources and Energy; bill not passed

The Vermont Legislative Bill Tracking System

Legislative History: Committee Meetings by Bill 2009 - 2010 Legislative Session

Committee Meetings where S.0289 was considered:

Meeting Details:

Committee(s): **Senate Committee on Finance**
Hearing Date: **02/17/2010**
Hearing Type: **Standard**
Comment:
Public Record ID:

Meeting Record:

S.289 - An act relating to approval for continued operation of the Vermont Yankee nuclear power station
Review bill

Aaron Adler, Legislative Counsel

[Complete Meeting Details](#)

Meeting Details:

Committee(s): **Senate Committee on Finance**
Hearing Date: **02/18/2010**
Hearing Type: **Standard**
Comment:
Public Record ID:

Meeting Record:

S.289 - An act relating to approval for continued operation of the Vermont Yankee nuclear power station

Testimony: Entergy, electric utilities, Department of Public Service invited

Kenneth R. Theobalds, Vice President Government Relations, Entergy Nuclear

David O'Brien, Commissioner, Department of Public Service

Brian Keefe, Vice President, Government and Public Affairs, Central Vermont Public Service

Stephen Kimbell, Lobbyist, Green Mountain Power

James Moore, Clean Energy Program Manager, Vermont Public Interest Research Group

William Driscoll, Vice President, Associated Industries of Vermont

Bob Stannard, Vermont Citizens Awareness Network

Raymond Shadis, Consulting Technical Advisor, New England Coalition

Paul Blanch, Energy Consultant, Hartford, CT

[Complete Meeting Details](#)